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**Promotion and protection of human rights: human rights
questions, including alternative approaches for improving the
effective enjoyment of human rights and fundamental freedoms**

Extrajudicial, summary or arbitrary executions

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, submitted in accordance with Assembly resolution 67/168.

* A/70/150.



Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions

Summary

In the present report, the Special Rapporteur provides an overview of his activities and considers two different topics relating to the protection of the right to life: (a) the role of forensic investigations; and (b) the application of the death penalty to foreign nationals.

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I. Introduction

1. The present report provides an overview of the activities carried out by the Special Rapporteur since the submission of his previous report to the General Assembly (A/69/265). In sections III and IV, the Special Rapporteur considers two different topics relating to the protection of the right to life: (a) the role of forensic investigations; and (b) the application of the death penalty to foreign nationals.

II. Activities of the Special Rapporteur

2. The activities carried out by the Special Rapporteur from 23 July 2014 to 6 February 2015 are outlined in his report to the Human Rights Council at its twenty-ninth session (A/HRC/29/37). In the thematic section of that report, the Special Rapporteur focused on the implications of information and communications technologies for the protection of the right to life.

A. International and national meetings

3. On 14 April 2015, the Special Rapporteur spoke at the high-level panel discussion on the death penalty in the framework of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, held in Doha.

4. On 5 and 6 May, he participated in the second Glion Human Rights Dialogue, hosted by the Governments of Norway and Switzerland.

5. On 4 and 5 June, the Special Rapporteur participated in the expert meeting of the Working Group on the Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa of the African Commission on Human and Peoples' Rights on the project of a general comment on article 4 of the African Charter on Human and Peoples' Rights, held in Kigali.

6. On 15 June, he made a presentation on the legal aspects of targeted unmanned aerial vehicle strikes in areas outside of active hostilities at the International Seminar on Improving Transparency, Oversight and Accountability for Any Use of Armed Unmanned Aerial Vehicles Outside Areas of Active Hostilities, organized by the United Nations Office for Disarmament Affairs and the United Nations Institute for Disarmament Research and held in Geneva.

7. On 15 June, he gave a briefing to Member States on the proper management of assemblies on his initiative and that of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, in Geneva.

8. On 16 June, the Special Rapporteur spoke at the expert meeting on the death penalty and foreign nationals, including migrant workers, organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and held in Geneva.

9. On 17 June, he participated in a side event on the protection of rights of persons facing the death penalty abroad, including migrant workers, organized by OHCHR and held in Geneva.

10. Jointly with the International Service for Human Rights, the Special Rapporteur organized a side event on the use of information and communications technologies to promote human rights, held in Geneva on 19 June.

11. On 19 June, he spoke at the side event on the right to protest organized by Article 19 and held in Geneva.

12. He organized an expert consultation on the revision of the United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, held in Geneva on 29 and 30 June.

13. On 14 July, the Special Rapporteur spoke on the topic "Extrajudicial executions: current challenges" at the University of Oxford-George Washington University Law School summer programme on international human rights law in Oxford, United Kingdom of Great Britain and Northern Ireland.

B. Visits

14. The Special Rapporteur visited the Gambia from 3 to 7 November 2014, at the invitation of the Government. His report on that country visit was submitted to the Human Rights Council in 2015 (A/HRC/29/37/Add.2).

15. Since his previous report to the General Assembly, the Special Rapporteur has sent requests for visits to the Governments of Egypt, Honduras, Nigeria, Pakistan, Ukraine and Yemen. The Special Rapporteur thanks the Governments of Iraq and Ukraine, which have responded positively to his requests, and encourages the Governments of Egypt, Honduras, the Islamic Republic of Iran, Madagascar, Nigeria, Pakistan, Sri Lanka and Yemen to accept his pending requests for a visit.

III. Role of forensic science in the protection of the right to life

16. The modern concept of human rights is premised on the approach that the violation of human rights norms has consequences: human rights standards are not merely preferences or aspirations. In line with this approach, it has been a central tenet of the mandate holder that the protection of the right to life has two components: the prevention of arbitrary deprivations of life; and accountability, should such deprivations occur. A lack of accountability is in itself a violation of the right to life. Accountability plays a central role in affirming the norm against arbitrary deprivations of life. As such, it also plays a vital preventive role. These two components thus create a self-reinforcing virtuous circle.

17. Accountability is a broad concept that is not limited to the legal or other finding that a specific individual or institution is responsible for a particular taking of life or to the sanctions imposed. Before such conclusions can be reached, an investigation into the events that transpired may be required. The more grave the alleged violation, the greater the need for investigation. Investigations are thus an integral part of the concept of accountability.

18. Good forensic science, for its part, plays an instrumental role in credible investigations, both those conducted immediately after the event and those where evidence emerges years later. The Special Rapporteur on torture and cruel, inhuman or degrading treatment or punishment has observed that "scientific evidence

obtained by thorough, impartial and independent forensic evaluations assists States to comply with their obligation systematically to investigate, prosecute and punish each incident of torture, and plays a major role in preventing future acts of torture by fighting impunity and holding perpetrators accountable" (see A/69/387, para. 20). The same is true of investigations into unlawful killings.

19. The intersection of the mandate of the Special Rapporteur and the process of investigations, including their forensic element, is made clear in one of the documents central to the mandate of the Special Rapporteur, the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1991).¹ In the light of developments that have taken place since the present document was drafted, both in terms of technical practice and legal frameworks, it seems high time that it be updated. In this section of his report, the Special Rapporteur considers the role of forensic investigations in the full protection of the right to life before turning to the question of the updating of the Manual.

A. Duty to investigate in international law

20. Investigations into suspected violations of the right to life are necessary if respect for the right is to be ensured and to prevent the development of a climate of impunity. States have a duty under international law to investigate allegations of violations.

1. International human rights law

21. International human rights law mandates investigation when its norms have been breached. In particular, in article 2 (2) of the International Covenant on Civil and Political Rights, States are required to "adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant". The Human Rights Committee, in general comment No. 31, noted that "a failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant".²

22. The Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions likewise call for "thorough, prompt and impartial investigation of all suspected cases of extralegal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death". The Principles stipulate that Governments must maintain investigative offices and procedures to undertake such inquiries. They then elaborate the purpose of the investigation, namely "to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death". Investigations should include "an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses" and should "distinguish between natural death, accidental death, suicide and homicide".³

¹ Adopted as E/ST/CSDHA/12 (1991).

² See CCPR/C/21/Rev.1/Add.13, para. 15.

³ Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions (1989).

23. The form of the necessary investigations, particularly of those concerning the use of force by State agents, has been elaborated in other documents. For example, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials requires Governments and law enforcement agencies to “ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances”. In cases where death or serious injury have resulted from law enforcement operations, officials must send a detailed report “promptly to the competent authorities responsible for administrative review and judicial control”. Those affected by the alleged violation, their family or their legal representatives must enjoy access to an independent process, including a judicial process.⁴

24. In several decisions concerning the right to life or physical integrity, the Human Rights Committee has held that the failure to investigate and punish the perpetrators constitutes a violation of the Covenant. For instance, in *Bautista de Arellana v. Colombia*, the Committee held that the State party “is under a duty to investigate thoroughly alleged violations of human rights, and in particular forced disappearances of persons and violations of the right to life, and to prosecute criminally, try and punish those held responsible for such violations”.⁵

25. Regional human rights bodies have made similar findings. The European Court of Human Rights found in *McKerr v. the United Kingdom* that “the obligation to protect the right to life under article 2 of the Convention [for the Protection of Human Rights and Fundamental Freedoms], read in conjunction with the State’s general duty under article 1 of the Convention to ‘secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention’, also requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force”.⁶ The Court highlighted a number of requirements for investigations. Governmental authorities must take “whatever reasonable steps they can to secure the evidence concerning the incident, including, inter alia, eyewitness testimony, forensic evidence and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death”.⁷ The Court also noted that the next of kin must be involved in the process as necessary.⁸

26. In *Ergi v. Turkey*, which involved clashes between Turkey and Kurdish rebels, the Court similarly held that “neither the prevalence of violent armed clashes nor the high incidence of fatalities can displace the obligation under article 2 to ensure that an effective, independent investigation is conducted into the deaths arising out

⁴ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).

⁵ Human Rights Committee, communication No. 562/1993, *Bautista de Arellana v. Colombia*, views adopted on 27 October 1995, para. 8.6.

⁶ European Court of Human Rights, *McKerr v. the United Kingdom*, Application No. 28883/95, judgement of 4 May 2001, para. 111. This finding reinforced the decisions concerning the requirement to investigate uses of force resulting in death previously found, for example, in *McCann and Others v. the United Kingdom*, judgement of 27 September 1995, series A, No. 324, para. 161 and *Kaya v. Turkey*, case No. 158/1996/777/1978, judgement of 19 February 1998, paras. 85-86.

⁷ See *McKerr v. United Kingdom* (note 6 above), para. 113.

⁸ See *McKerr v. United Kingdom* (note 6 above), para. 115.

of clashes with security forces".⁹ Similarly, in *Isayeva v. Russia*, the Court held that the protection of article 2 continued to imply that there should be some form of effective judicial investigation when individuals have been killed as a result of the use of force in the context of armed conflict, namely indiscriminate shelling in Chechnya.¹⁰ In *Jaloud v. the Netherlands*, the Court underlined the extraterritorial nature of the duty to investigate under article 2, including in armed conflict.¹¹

27. Other human rights tribunals have arrived at comparable conclusions, both regarding the link between the absence of a credible investigation and impunity and the substantive requirements for credibility. Collectively, international human rights courts have elaborated a series of principles that such an investigation should observe, including that authorities must act on their own motion, act with independence, be effective and prompt.¹²

2. International humanitarian law

28. As noted above, the human rights law obligation to investigate violations of the right to life continues to apply during armed conflict albeit interpreted, during the conduct of hostilities, with reference to the complementary principles of international humanitarian law.¹³

29. However, in addition, humanitarian law imposes its own obligation to investigate. Common article 1 of the four Geneva Conventions requires that parties "undertake to respect and to ensure respect for the present Convention in all circumstances".

30. Article 146 of the Fourth Geneva Convention stipulates that each party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, "grave breaches", and shall bring such persons, regardless of their nationality, before its own courts. Alternatively, it may hand such persons over for trial to another party concerned, provided that that party has made out a prima facie case.

31. Article 87 (3) of Protocol I to the Geneva Conventions states that parties to the conflict "shall require any commander who is aware that subordinates or other persons under his control are going to commit or have committed a breach of the Conventions or of this Protocol, to initiate such steps as are necessary to prevent such violations of the Conventions or this Protocol, and, where appropriate, to initiate disciplinary or penal action against violators thereof". In its commentary on the Protocols, the International Committee of the Red Cross (ICRC) expressly contemplates investigations conducted by the commander, who would in such cases

⁹ European Court of Human Rights, *Ergi v. Turkey*, case No. 66/1997/850/1057, judgement of 28 July 1998, para. 85.

¹⁰ European Court of Human Rights, *Isayeva v. Russia*, application No. 57950/00, judgement of 24 February 2005, para. 209.

¹¹ European Court of Human Rights, *Jaloud v. the Netherlands*, application No. 47708/08, judgement of 20 November 2014.

¹² In addition to the European jurisprudence discussed above, see generally Inter-American Court of Human Rights, *Case of the Ituango Massacres v. Colombia*, judgement of 1 July 2006; *Case of the "Mapiripan Massacre" v. Colombia*, judgement of 15 September 2005; and *Case of González et al ("Cotton Field") v. Mexico*, judgement of 16 November 2009.

¹³ See discussion of the examples of the *Isayeva v. Russia* and *Jaloud v. the Netherlands* cases above.

“act like an investigating magistrate”.¹⁴ As emphasized in the commentary, whether concerned with military operations, occupied territories or places of internment, “the necessary measures for the proper application of the Conventions and the Protocol must be taken at the level of the troops, so that a fatal gap between the undertakings entered into by parties to the conflict and the conduct of individuals is avoided”.¹⁵ Thus, article 87 imposes a duty on members of the armed forces to act proactively in the face of potential or possible international humanitarian law violations.¹⁶

32. Organs of the United Nations have repeatedly cited the obligation to investigate and prosecute war criminals, ever since the very first session of the General Assembly in 1946, when it called upon States to apprehend war criminals and return them to those States where the offences were committed.¹⁷ More recently, in 2005, the General Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. Paragraph 3 provides that “the obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to ... investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law”.¹⁸

33. Although not explicitly included in Protocol II to the Geneva Conventions, the inclusion of the notion of command responsibility for failure to prosecute in the statute of the International Criminal Tribunal for Rwanda supports the idea of general applicability to non-international armed conflicts.¹⁹

B. Practice of investigations

34. Effective investigations into suspicious deaths can involve contributions from a very wide range of expertise. This can include forensic anthropology, archaeology, pathology, ballistics, toxicology, latent print identification and many others. It is increasingly recognized that all relevant experts in the disciplines must be able to report on a scene in a holistic fashion and to comment on the reports of others.

1. Importance of the independence of forensic investigators

35. As with any other dimension of a credible investigation, it is vital that forensic investigators be meaningfully (functionally) independent of the persons or institution that they are investigating.

¹⁴ ICRC, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva, Martinus Nijhoff Publishers, 1987), para. 3562.

¹⁵ *Ibid.*, para. 3550.

¹⁶ Michael N. Schmitt, “Investigating violations of international law in armed conflict”, *Harvard National Security Journal*, vol. 2, No. 1 (2011).

¹⁷ General Assembly resolution 3(I).

¹⁸ General Assembly resolution 60/147, annex, para. 3 (b).

¹⁹ See Schmitt, “Investigating violations of international law” (footnote 16). Also see International Tribunal for the Former Yugoslavia, *Prosecutor v. Tadic*, case No. IT-94-I-I (2 Oct. 1995).

36. There is a debate about whether forensic science is best served by being based principally in the judicial mechanisms of law enforcement or rather in the medico-scientific realm of public health. In a report submitted to the United States Department of Justice, the National Academy of Sciences underlined that "forensic science serves more than just law enforcement; and when it does serve law enforcement, it must be equally available to law enforcement officers, prosecutors, and defendants in the criminal justice system". It was argued that an entity established to govern the forensic science community "cannot be principally beholden to law enforcement. The potential for conflicts of interest between the needs of law enforcement and the broader needs of forensic science are too great."²⁰

37. A crucial element of functional independence is the right of access to salient information, which in the forensic context also includes the right to access to the scene(s) related to an incident. Another dimension or implication of this is that forensic investigators might sometimes require a privileged legal status, which can serve as a protection from personal or professional reprisal.

38. In certain contexts, it can be a valuable contribution towards independence, and credible independence, to have foreign specialists as part of an investigatory team. An ancillary benefit of such participation is the extent to which it can contribute towards capacity-building.

2. Role of ad hoc mechanisms, including international mechanisms

39. From time to time, with respect to violations that fall within the scope of this mandate, such as large-scale killing by law enforcement officials (for example, in the case of a public demonstration), the ordinary forensic investigatory body will likely be unable to complete a fully independent investigation. In such instances, there is a role for a specialized independent investigatory body that has full power of oversight over the organization or branch to be investigated, whether that is the police force, the army, the national intelligence agency or other.

40. In some circumstances, it is helpful for ad hoc mechanisms to have an international constituency. More generally, in view of the benefits of forensic expertise from around the world being able to interact and share best practices with each other, various forums have evolved to allow for such exchange. ICRC has established a forensics advisory board, which seeks to offer guidance to forensic practitioners, especially concerning their work in challenging humanitarian contexts. International non-governmental organizations such as Physicians for Human Rights can also meet this need.

41. In recognition of the salience of forensic expertise for human rights investigations, some United Nations special procedures mandate holders (most notably the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) have developed the practice of taking a forensic expert with them on country missions.

42. At the level of international criminal investigation, the International Criminal Court has established a scientific advisory board to provide recommendations to the

²⁰ National Academy of Sciences, *Strengthening Forensic Science in the United States: A Path Forward* (Washington, D.C., 2009).

Prosecutor on the most recent developments in new and emerging technologies and scientific methods and procedures.²¹

3. Importance of capacity-building

43. Capacity with respect to forensic investigations varies broadly around the world. While this is not unexpected, it is important to the extent that, given the discussion above, this implies that the level of protection of the right to life may vary commensurately. It is therefore important that forensic capacity be considered, among development priorities, as a crucial element of support to criminal justice systems.

44. For all of the technological developments that may have taken place over the past 25 years, many of the most important developments have in fact been in terms of process; capacity-building should therefore be as much about education as about equipment.

45. One such methodological focus could be the importance of documentation. For an investigation to be credible, it is necessary that an external expert be able to review the documentation of the case and arrive at the same conclusions. An investigation that, in other dimensions, meets best practice and arrives at likely the correct conclusions but which has failed to properly document its methodology and findings cannot be endorsed by a reviewer. This "independent reviewability" should be a core component of capacity-building.

46. The necessary capacity-building applies not only to forensic specialists themselves, but also to other fields of the criminal justice system and even to the wider public in order to inform them about the role that forensic investigation can play.

C. Role of new technology in investigations

47. Throughout his mandate, the Special Rapporteur has examined the impact of technological developments on the protection of the right to life. In his report to the Human Rights Council in 2015, he highlighted the potential use of information communications technologies to achieve accountability for violations of the right to life. Consultations surrounding the use of information and communications technologies made clear the salience of questions concerning the collection of digital evidence by specialists and the role that such evidence can play within investigations. Conversely, new technology is providing new ways for conventional evidence to be collected, analysed and presented.

48. In some cases, this has involved the more general proliferation of basic and necessary equipment or the lowering of cost barriers to their use. For example, the relatively widespread availability of digital cameras has transformed the way in which forensic investigators can document scenes. In some contexts, investigators have used mobile phones (sometimes coupled with specially designed applications) to take or to transmit and archive evidentiary photographs.

²¹ Available from www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1022.aspx.

49. In other cases, new equipment or techniques have enabled investigators to use fundamentally different tools. One such new technique is the digital reconstruction of the scene of the incident either by taking a laser scan at the scene or retrospectively reconstructing it from photographs or video footage. So-called photogrammetric reconstructions can range from the scale of a single object to the scale of large landscapes. Stereophotogrammetry is a kind of photogrammetry in which three-dimensional coordinates are made by taking measurements from two or more photographs taken from different positions. The result is a three-dimensional model of the object or area of land that can be combined with modelling software to produce accurate three-dimensional representations of structures, streets, towns or objects. Video motion tracking (currently used in surveillance, traffic control and human-computer interaction) can be used to analyse video evidence, identifying target objects in consecutive frames.

50. With respect to human rights investigations, this type of analysis can be invaluable in trying to draw conclusions from sometimes repurposed or partial evidence. For example, the experts involved in a Forensic Architecture project funded by the European Research Council collaborated on an investigation into the death of a 30-year-old man hit by a tear-gas canister during a peaceful protest in the village of Bil'in in the West Bank. A three-dimensional spatial analysis constructed from field measurements, videos, photographs and aerial images demonstrated that in order to travel with the trajectory shown in a video recorded by a passer-by, the canister had to have been fired at an almost direct angle, contrary to the Israeli army's regulations for the weapon's use. On the basis of this evidence, a judge ordered an official investigation into what soldiers had claimed was an accidental death.²²

51. Interestingly, similar techniques can also be applied to much older cases. For example, prosecutors have used digital reconstructions of Nazi concentration camps in order to demonstrate what it would have been possible to see from particular posts and thus to build cases against former camp guards.²³

52. The Special Rapporteur welcomes the fact that those who work with such technology have offered support for his mandate and looks forward to engaging constructively with this field. It is important to highlight, as he did in his recent report to the Human Rights Council regarding the importance of information communications technologies, that the technological innovations are not, on their own, sufficient to ensure greater accountability for violations of the right to life: it is important both that human capacity be developed to take advantage of the technology and that pre-existing forums of accountability be open to new forms or presentations of evidence.

D. Importance of identification

53. One technological development that has revolutionized the forensic investigation of human remains over the past several decades is the development

²² Available from www.situresearch.com/works/bilin-report.

²³ Melissa Eddy, "Chasing death camp guards with new tools", *New York Times*, 5 May 2014. Available from www.nytimes.com/2014/05/06/world/europe/chasing-death-camp-guards-with-virtual-tools.html.

and continuing sophistication of techniques of DNA identification. This has had a number of impacts on the right to life.

54. One manner in which the mandate and DNA evidence intersect is the use of DNA evidence in exoneration proceedings on behalf of those convicted of capital crimes. While doubtless only the tip of the iceberg with respect to wrongful convictions, these cases underline the extent to which DNA can improve the accuracy of criminal investigations and, in several jurisdictions, has increased the threshold of the burden of proof.

55. In a similarly transformative fashion, DNA and the field of forensic genetics have been used to identify persons missing as a result of human rights violations or from multiple fatalities resulting from natural disasters or accidents. An awareness of the importance of this field for human rights, including the right to truth, led the High Commissioner for Human Rights to write a report on forensic genetics and human rights in 2010 (A/HRC/15/26). The report underlined the importance of establishing protocols for exhumation, ante mortem data collection, autopsies and identification based on scientifically valid and reliable methods and technologies; appropriate means of involving the communities and families concerned in the exhumation, autopsy and identification procedures; and procedures for handing over the human remains to the family. More generally, and along with Human Rights Council resolution 10/26, the report demonstrated that the use of forensic genetics, including the voluntary creation of genetic databanks, has a crucial role to play in identifying victims of serious violations of human rights and international humanitarian law.²⁴ The Working Group on Enforced and Involuntary Disappearances has also stressed the need for expanded use of DNA testing in this connection (see A/HRC/27/49, para. 112).

56. Across all dimensions of the forensic investigatory process, it is important to guard against unrealistic expectations of what the science can reveal (expectations among non-experts, which can be influenced by portrayals of forensic investigations in popular culture). These expectations can be particularly problematic when they lead policymakers to impose unnecessarily high thresholds on the standards of proof for identification of historical remains, which can lead to traumatic bottlenecks and delays in the return of remains to families.

E. Updating of the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions

57. The United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions is one of the earlier founding documents of the mandate.

58. For some time, the document has required updating and supplementation. Indeed, in a series of resolutions adopted between 1998 and 2005, the Commission on Human Rights (the predecessor of the Human Rights Council) called upon the Office of the High Commissioner and the then Crime Prevention and Criminal

²⁴ In addition to the work of OHCHR, the International Committee of the Red Cross also developed a helpful guidance publication entitled "Forensic identification of human remains" (Geneva, 2014). Available from www.icrc.org/eng/resources/documents/publication/p4154.htm.

Justice Division to consider a revision of the Manual and called upon the Secretary-General to provide funds to do so.²⁵

59. These numerous resolutions notwithstanding, it does not appear that any work has been undertaken to update the Manual. Since the Commission became the Council in 2006, resolutions adopted in 2009 and 2010 referred back to the Commission's earlier resolutions.²⁶

60. The Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions remains a frequently cited source of international standards with respect to the adequacy of an investigation. Regional human rights courts have referred both to the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and to the Manual in reaching findings on the inadequacy of investigations into suspicious deaths.²⁷ National courts have done the same when establishing guidelines for the investigation of killings by the police.²⁸ ICRC relied on the Principles and the Manual in its Study on customary international humanitarian law: a contribution to the understanding and respect for the rule of law in armed conflict (2005) and in its Guidelines for Investigating Deaths in Custody (2013).

61. The extent of the continued reliance on the Manual in international jurisprudence and by national legal entities emphasizes the need for the document to be up to date and comprehensive. It is to be expected that if the document is more up to date, it will more often and more readily serve as a guide.

62. The Manual should address, in substantive terms, all significant aspects of investigations of suspicious deaths. That is not to say that it must be a highly detailed guide on all aspects of investigations. The value of the Manual is in its generality rather than its detail: other individual documents (for example, the ICRC Guidelines for Investigating Deaths in Custody) may provide substantially more detail on specific aspects of the guidance, but the Manual should provide broad guidance for all those aspects.

F. Conclusion

63. **The right to life cannot be considered fully protected unless full investigations are conducted into any situation in which it may have been violated. Whether a death was arbitrary and thus unlawful can often only be established with reference to a full understanding of the circumstances of that death. This leads to a responsibility on the part of States to ensure that the circumstances of any unnatural death (or death that looks as though it may**

²⁵ Commission on Human Rights resolutions 1998/36, 2000/32, 2003/33 and 2005/26.

²⁶ Commission on Human Rights resolutions 10/26 and 15/5.

²⁷ See, for example, European Court of Human Rights, *Case of Nachova and other v. Bulgaria* (applications Nos. 43577/98 and 43579/98), 6 July 2005; European Court of Human Rights, *Case of Finucane v. the United Kingdom*, application No. 29178/95, 1 July 2003 and 1 October 2003; Inter-American Court of Human Rights, *Gonzalez et al. v Mexico*, case No. 281/02, 16 November 2009.

²⁸ See Supreme Court of India, Criminal Appellate Jurisdiction, *People's Union for Civil Liberties & Anr. versus State of Maharashtra & Ors. (Criminal Appeal No. 1255 of 1999)*, 23 September 2014.

have been unnatural) are investigated with reference to as much forensic expertise as necessary.

64. Advances in forensic investigative techniques will continue to evolve. It is to be welcomed that international forums exist whereby such innovations can be shared at a global level and best practices can be exchanged. Dialogues such as these are likely to have a positive impact on the quality of investigation and therefore the protection of the right to life. However, there are also a great many potential non-technical impediments to an effective investigation. It is important, given the centrality of the duty to investigate to the enjoyment of so many human rights, that the human rights community remain engaged in the elaboration of standards and best practices for an enabling political and legal environment and the proper establishment of an investigation.

65. For this reason, the Special Rapporteur has undertaken a process, the need for which was underlined by the many expert practitioners with whom he has consulted, to update the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, popularly referred to as the Minnesota Protocol.²⁹

G. Recommendations

66. The Special Rapporteur encourages the participation and engagement of Member States, national forensic institutions and non-governmental organizations in the second round of public consultations concerning the revision of the Manual, which will likely be opened in January 2016.

67. Once revised, the Manual should be made broadly available. The Special Rapporteur will seek the assistance of States, intergovernmental organizations, international professional bodies, academics and others to ensure that the revised document reaches those who need to use it.

68. Human rights mechanisms, including national and regional mechanisms, should emphasize the need for comprehensive investigations and the role that properly instituted forensic capacity can play in them.

IV. Application of the death penalty to foreign nationals and the responsibilities of States

69. The death penalty falls within the scope of the Special Rapporteur's mandate because the imposition of the death penalty in violation of international law standards constitutes an arbitrary execution and thus a violation of the right to life as protected, for example, in article 6 (1) of the International Covenant on Civil and Political Rights. As stated elsewhere, the Special Rapporteur is of the view that the time has come to regard international law as at least progressively abolitionist, in the sense that international law requires States to move away from the death penalty, if not immediately then at least over time (see A/67/275, paras. 39-42 and A/69/265, para. 90). It is true that article 6 (2) of the Covenant, by demanding that States that

²⁹ See www.ohchr.org/EN/Issues/Executions/Pages/RevisionoftheUNManualPreventionExtraLegalArbitrary.aspx.

still apply the death penalty do so only for the "most serious crimes", could be understood to provide a foothold for the death penalty in such extreme cases. That narrow foothold, however, has shrunk over the years. The drafting history suggests that international law requires at least the gradual reduction in the crimes for which the death penalty may be imposed.³⁰ The category of "most serious crimes" is now understood to cover only intentional killing, namely, murder (see A/67/275, para. 35).

70. Moreover, article 6 (6) of the Covenant states that nothing in article 6 "shall be invoked to delay or to prevent the abolition of capital punishment by any State party". The fact that the death penalty may have a foothold in article 6 (2), dealing with the right to life, may thus not serve as an argument against the contention that the modern interpretation of rights such as the right not to be subjected to torture, cruel or inhuman treatment or the right to dignity demands an end to this form of punishment (see A/67/279).

71. In the meantime, while a shrinking number of States still retain this form of punishment, the International Covenant on Civil and Political Rights and international law more broadly create a number of safeguards designed to regulate the death penalty.³¹ These safeguards can generally be described as concerning the crime, stipulating as indicated above that it be the "most serious"; the process, underlining that there must be a trial that conforms strictly with standards of fairness set down elsewhere; and the offender, protecting certain groups, such as those under 18, pregnant women or persons with mental or intellectual disabilities.

72. In this section, the Special Rapporteur explores the extent to which violations of these safeguards particularly impact an already often marginalized group, namely, foreign nationals (including migrant workers) and what additional responsibilities States have in this regard.

73. Persons facing the death penalty abroad are often disadvantaged compared with nationals of the prosecuting State. They can be disproportionately and thus arbitrarily affected by the death penalty owing to unfamiliarity with the laws and procedures in the prosecuting State. They may also have limited access to legal aid and therefore inadequate or low-quality legal representation. They may be unable to understand the language in which proceedings are conducted. They are less likely to have a support network of family and friends.

74. Pursuant to article 2 of the International Covenant on Civil and Political Rights, each State party to the Covenant is required to respect and ensure respect for the provision on non-discrimination to all individuals within its territory and subject to its jurisdiction, including foreign nationals facing the death penalty. Further, the refusal of State authorities to allow foreigners the power to seek clemency or commutation could amount to a violation of article 6 (4) of the Covenant.

75. The imposition of the death penalty against foreign nationals often leads to a situation in which States that have abolished the death penalty for legal and ethical reasons and that comply with all international standards in this regard are

³⁰ Roger Hood, "The enigma of the 'most serious' offences", Center for Human Rights and Global Justice Working Paper, Extrajudicial Execution Series, No. 9 (New York, NYU School of Law, 2006).

³¹ The safeguards set out in article 6 (2), (4) and (5) of the International Covenant on Civil and Political Rights are further elaborated in the United Nations safeguards guaranteeing protection of the rights of those facing the death penalty of 1984.

confronted with their citizens being detained elsewhere, subjected to unlawful procedures and, in some cases, executed.

76. Data suggest that foreign nationals, including migrant workers, especially from Asia and Africa, remain disproportionately affected by the death penalty in several States.³² In Malaysia, death sentences have recently been issued against at least 37 foreign nationals, mostly for drug offences, and at least 250 Malaysians are under sentence of death abroad for drug offences. In Saudi Arabia, at least 33 foreign nationals were executed in the first half of 2015 alone.

77. In Indonesia, many foreign nationals are among the at least 149 persons convicted of drug-related offences who are reportedly on death row. Moreover, 247 Indonesians are on death row in other countries. In the United Arab Emirates, foreign nationals accounted for the largest number of people receiving death sentences in 2014, including nationals of Afghanistan, Bangladesh, Egypt, India, Kuwait, Pakistan and Saudi Arabia.³² In the Islamic Republic of Iran, a large number of foreign nationals are on death row for drug crimes, including at least 1,200 Afghans. In the United States of America, a total of 139 individuals, representing 36 nationalities, are under sentences of death. Some 125 Filipino migrant workers are also on death row abroad. Seventy-five British nationals are facing execution abroad for offences including murder, drugs, terrorism and blasphemy. Nearly 120 Nigerians are facing the death penalty in China, more than 170 in Indonesia, Thailand, Malaysia and Viet Nam and 5 in Qatar, the United Arab Emirates and Saudi Arabia.³³

78. Recent reports of the Secretary-General identified discrimination against foreign nationals facing the death penalty abroad as an area of concern when considering the application of the death penalty.³⁴ Recognizing the significance of the issue, the General Assembly, in its 2014 resolution on a global moratorium also called upon States to comply with their obligations under the Vienna Convention on Consular Relations and to respect the right of foreign nationals to receive information on consular assistance when legal proceedings are initiated against them.³⁵

A. Discriminatory application of the death penalty

79. In addition to direct forms of discrimination with respect to the application of the death penalty to foreign nationals, there are a number of indirect ways in which broader discriminatory structures of death penalty systems tend to impact on foreign nationals.

³² Unless otherwise stated, the statistics cited here were collated by OHCHR before convening an expert meeting on the question of the death penalty and foreign nationals in June 2015.

³³ Information regarding Nigerians on death row was provided to OHCHR by the Legal Defence and Assistance Project, a non-governmental organization of lawyers and law professionals, engaged in the promotion and protection of human rights, the rule of law and good governance in Nigeria.

³⁴ See A/HRC/21/29, A/HRC/24/18 and A/HRC/27/23.

³⁵ Resolution 69/186.

1. Migrant workers

80. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provides that migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals (article 18 (1)).

81. In many jurisdictions, however, migrant workers appear to face discriminatory justice. For example, the number of foreign domestic workers on death row in Saudi Arabia made headlines around the world in 2013, drawing attention to the treatment of foreign domestic workers.³⁶ Failures to meet fair trial standards have led some Governments to establish special task forces to protect their citizens working abroad (see A/HRC/21/29, para. 38).

82. In certain legal systems, the imposition of an execution can be avoided through the payment of *diya* or “blood money”. It is important, where such provision exists, that it be applied transparently and without discrimination.³⁷ However, it remains the case that such systems can have a disproportionate impact on migrant workers, who cannot afford to pay the necessary sums.³⁸

2. Drugs offences

83. There is also a link between the application of the death penalty to drugs offences (most commonly drug trafficking) and foreign nationals. A significant proportion of the perpetrators of trafficking crimes are foreign nationals. The very high proportion of migrants on death row in countries in South-East Asia and the Middle East may well be related to the fact that in many of those States, drug offences carry sentences of death.

84. The Special Rapporteur emphasizes that the death penalty for drug offences is in no circumstances permissible under international law. Both he and other actors, including the Human Rights Committee, have repeatedly underlined that drugs offences do not meet the threshold test of “most serious” crimes. The problem of migrants on death row for drugs offences is highlighted here not because it is normatively different, but because these cases make up a numerically significant proportion of cases. Moreover, as discussed below, this can have ramifications with respect to bilateral or multilateral assistance to programmes aimed at combating transnational drug trafficking.

3. Death penalty and poverty

85. The disproportionate impact of the death penalty on poorer communities has now been widely recognized. As equal justice campaigner Bryan Stevenson has frequently stated with respect to the United States, “It’s better to be rich and guilty

³⁶ Gethin Chamberlain, “Saudi Arabia’s treatment of foreign workers under fire after beheading of Sri Lankan maid”, *The Observer* (London) 12 January 2013. Available from www.theguardian.com/world/2013/jan/13/saudi-arabia-treatment-foreign-workers.

³⁷ Michael Mumisa, *Sharia Law and the Death Penalty: Would Abolition of the Death Penalty be Unfaithful to the Message of Islam?* (London, Penal Reform International, 2015).

³⁸ The special task force established by the Indonesian Government has gone to the length of paying substantial sums in “blood money” to secure the release of Indonesians on death row. See, for example, Hands Off Cain, “Saudi Arabia: six Indonesians on death row released after Indonesia agreed to pay blood money”, 3 June 2015. Available from www.handsoffcain.info/news/index.php?idocumento=19303864.

than poor and innocent when charged with a serious crime". Recent research in India has drawn attention to this connection.³⁹

86. One study of the discriminatory impact of criminal justice against the poor in the United States highlighted that, with only rare exceptions, those facing capital charges cannot afford a lawyer and hence rely on a State-appointed attorney to provide their defence. However, "while capital cases are among the most complex, time-intensive and financially draining cases to try, indigent capital defendants often are appointed attorneys who are overworked, underpaid, lacking critical resources, incompetent or inexperienced in trying death penalty cases".⁴⁰ The same considerations apply in many other countries.

87. Moreover, in some jurisdictions, legal aid systems commence only at the trial stage, which means that police and prosecutors can conduct their investigations of the poorest offenders completely free of oversight or intervention by a lawyer. By the time a case reaches a courtroom, it may already be too late to guarantee a fair trial.

4. Fair trial guarantees

88. As noted above, the safeguards surrounding the imposition of the death penalty require that it be imposed only after a fair trial. What constitutes a fair trial should be determined with reference to other areas of international law, including article 14 of the International Covenant on Civil and Political Rights.

89. One of the most obvious forms of an unfair trial is the conduct of legal proceedings against a person in a language he or she does not comprehend without making provision for interpretation. Article 14 (3)(f) of the International Covenant on Civil and Political Rights guarantees a defendant "the free assistance of an interpreter if he cannot understand or speak the language used in court". The 1996 Economic and Social Council resolution regarding the safeguards guaranteeing protection of the rights of those facing the death penalty, provides that States should "ensure that defendants who do not sufficiently understand the language used in court are fully informed, by way of interpretation or translation, of all the charges against them and the content of the relevant evidence deliberated in court".⁴¹ This protection should extend beyond the courtroom: the provision of interpretation during police questioning is a vital safeguard and one of the most important contributions that early consular intervention can make.

90. Foreign nationals, including migrant workers, can find it difficult to access (and fund) a lawyer of appropriate experience to defend them throughout the different stages of an investigation ending in trial for a capital offence. This can be for a range of procedural, financial, linguistic or cultural reasons, but is a clear impediment to a fair trial.

³⁹ Interview with Anup Surendranath, Assistant Professor at National Law University of Delhi, by Uttam Sengupta. Available from www.outlookindia.com/article/most-death-row-convicts-are-poor/292798.

⁴⁰ American Civil Liberties Union, "Slamming the courthouse door: denial of access to justice and remedy in America" (New York, December 2010).

⁴¹ Economic and Social Council resolution 1996/15 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty", para. 4.

B. Role of consular assistance

91. Access to consular assistance is an important aspect of the protection of those facing the death penalty abroad. The Vienna Convention on Consular Relations requires all States to take every possible action to ensure reciprocal compliance with this safeguard, in line with the relevant provision on the right to seek consular assistance.

92. Under article 36 of the Convention, local authorities must inform all detained foreigners "without delay" of their right to have their consulate notified of their detention and to communicate with their consular representatives. This applies to all detained foreigners but is of particular significance to those who face the death penalty because of the irreversibility of the punishment. At the request of the national, the authorities must then notify the consulate of the detention without delay; they must also facilitate consular communication and grant consular access to the detainee. Consuls are empowered to arrange for their nationals' legal representation and to provide a wide range of humanitarian and other assistance, with the consent of the detainee. Local laws and regulations must give "full effect" to the rights enshrined in article 36. These protections for migrant workers are further elaborated in article 23 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

93. In several States, however, foreign nationals, including migrant workers, have been deprived of protection under the Vienna Convention on Consular Relations and sentenced to death without respect for fair trial standards. Foreign nationals, many of whom do not speak the language of the court in which they are being tried, often do not have access to interpreters. The denial of the right to consular notification and access is a violation of due process and the execution of a foreign national deprived of such rights constitutes an arbitrary deprivation of life, in contravention of articles 6 and 14 of the International Covenant on Civil and Political Rights.

94. The requirement that foreign nationals must be informed without delay after their arrest of their rights under the Vienna Convention on Consular Relations has been confirmed by the International Court of Justice. In its *Avena* ruling, the Court found that advisement of consular rights "without delay" means "a duty upon the arresting authorities to give the information to an arrested person as soon as it is realized that the person is a foreign national, or once there are grounds to think that the person is probably a foreign national". The Court also held that States should provide judicial "review and reconsideration" of convictions and sentences to examine the nature and consequences of consular rights violations in cases of foreign nationals facing severe penalties or prolonged incarceration.⁴² The Inter-American Court of Human Rights also issued an advisory opinion on the right to information on consular assistance in the framework of the guarantees of the due process of law.⁴³

⁴² International Court of Justice, *Case concerning Avena and other Mexican Nationals (Mexico v. United States of America)*, summary of judgement of 31 March 2004.

⁴³ Inter-American Court of Human Rights, *Advisory opinion OC-16/99 of October 1, 1999 requested by the United Mexican States: the rights to information on consular assistance in the framework of the guarantees of the due process of law*.

C. Responsibilities of States of origin or of transfer

95. In his prior report to the General Assembly on the death penalty, the Special Rapporteur noted with respect to the responsibility of States a distinction between the responsibilities of those States which have already abolished the death penalty and of those which have not yet done so (A/67/275, paras. 68-97). Abolitionist States can have responsibilities with respect to the continued application of the death penalty elsewhere in a number of ways, many of which have an impact on foreign nationals. First, they can be directly responsible for the transfer of a person to a retentionist jurisdiction (whether that person is their national or not); second, they can bilaterally or multilaterally assist in the legal process leading to a death sentence; and third, they can have responsibilities arising from the defendant being their own national.

96. Article 16 of the International Law Commission's Articles on State Responsibility prohibits complicity in internationally wrongful acts. It is internationally wrongful for any State to impose the death penalty in violation of international law and, hence, all States must refrain from providing assistance in situations where the death penalty might be imposed in such a manner, for example, where it might be imposed for drug-related offences or for other crimes that do not meet the threshold of "most serious".

97. In addition to this, once a State party to the International Covenant on Civil and Political Rights has abolished the death penalty, it may not reinstate it and it must not be complicit in the use of the death penalty anywhere, in any circumstances (see A/67/275, para. 76; CCPR/C/70/D/869/1999).

98. In this instance, "abolitionist" means States that have abolished the death penalty *de jure*. However, it could be argued that these obligations could also apply to States that are abolitionist in practice, for example, where an official moratorium on executions exists or if a State has signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, but not yet fully abolished the death penalty in law.⁴⁴

1. Refoulement and extradition

99. The extradition or deportation of an individual to a State where they are likely to face the death penalty is a clear example of a State facilitating the use of the death penalty elsewhere, since the death penalty can be imposed only with the assistance of the extraditing State. States that have abolished the death penalty are absolutely prohibited from transferring a person when they know or ought to know that there is a real risk of the imposition of the death penalty. States that retain the death penalty in law may transfer persons where there is a risk of the death penalty, but the transfer is lawful only where the requesting State adheres to all requirements imposed by international law (see A/67/275, paras. 74 and 77).

100. It has been well established that abolitionist States must seek effective and credible assurances that the death penalty will not be imposed before extraditing or deporting an individual to a State when there is a real risk that they will face the

⁴⁴ See Yuval Ginbar, Jan Erik Wetzel and Livio Zilli, "Non-refoulement obligations under international law in the context of the death penalty", in *Capital Punishment: New Perspectives*, Peter Hodgkinson, ed. (Westminster, United Kingdom, Ashgate, 2013).

death penalty.⁴⁵ Most States that have not yet abolished the death penalty willingly offer assurances when seeking extradition from abolitionist States (including now certain States within the United States that were initially reluctant).⁴⁴ In all cases, to render the transfer lawful, the assurances must comply with various standards, including making public the existence and terms of the assurance.

101. Ensuring that all States were able to cooperate with international criminal justice was one reason for the exclusion of the death penalty from the Rome Statute of the International Criminal Court and its abolition in Rwanda. More recently, the founding document of a special criminal court established in the Central African Republic can impose a maximum sentence of life imprisonment.

2. Cooperation and collaboration

102. A dilemma emerges when abolitionist States provide assistance to retentionist States in criminal matters and that assistance leads to the use of the death penalty. Even though the individual facing the death penalty in such cases may never have been in the jurisdiction of the abolitionist State, such assistance could amount to complicity in the death penalty. The same legal principles apply here as in the case of transfer of persons: States that have abolished capital punishment may not assist in bringing about the death penalty in other countries, while States that retain it in law may support only its lawful imposition (see A/67/275, para. 81).

103. At the most basic level, a State may share information or intelligence with another State concerning a criminal act, which may at some later stage be used as evidence in a judicial proceeding that results in a death sentence. Investigations by non-governmental organizations have highlighted how assistance from abolitionist States has contributed to death sentences for drug-related offences in the Islamic Republic of Iran and Pakistan.⁴⁶ Because such intelligence-sharing often occurs at an agency-to-agency level, it is important that States develop guidance for their officials in this regard.

104. Following recent executions in Indonesia, a proposed private member's bill in Australia would create an offence for public officials and former public officials "who disclose information resulting in a person being tried, investigated, prosecuted or punished for an offence that carries the death penalty in a foreign country".⁴⁷ An official found guilty of such a disclosure could face a jail term of up to 15 years, with a mandatory minimum sentence of 1 year. However, the bill contains an unfortunate exception that allows the Attorney-General to authorize assistance without such assurances in terrorism cases or any other case that involves an act of

⁴⁵ See communication No. 829/1998, *Judge v. Canada*, views adopted on 5 August 2002; European Court of Human Rights, *Case of Al-Saadoon and Mufidhi v. The United Kingdom* (Application No. 61498/08), 2 March 2010; and A/69/288.

⁴⁶ Patrick Gallahue, Roxanne Saucier and Damon Barret, *Partners in Crime: International Funding for Drug Control and Gross Violations of Human Rights* (London, Harm Reduction International, 2012); Reprieve, "European Aid for Executions: how European counternarcotics aid enables death sentences and executions in Iran and Pakistan", November 2014. Available from www.reprieve.org.uk/wp-content/uploads/2014/12/European-Aid-for-Executions-A-Report-by-Reprieve.pdf.

⁴⁷ Australia, Foreign Death Penalty Offences (Preventing Information Disclosure) Bill 2015. Available from www.austlii.edu.au/au/legis/cth/bill/fdpoidb2015640/; Human Rights Watch, "Australian Government and the death penalty: a way forward", 20 May 2015. Available from www.hrw.org/news/2015/05/20/australian-government-and-death-penalty-way-forward.

violence that causes a person's death or that endangers a person's life (section 7(2)). This proposed text appears incompatible with Australia's commitment, as an abolitionist State, not to impose the death penalty for any offences or be complicit in the death penalty in any circumstances.

105. Aside from providing information concerning a specific case, two States may have a bilateral development agreement in place, again often at the agency-to-agency level, that can provide material assistance to the criminal justice system. As a question of policy rather than ad hoc cooperation, it ought to be more straightforward for States to ensure that they are not providing assistance to a legal system that is potentially collaborating in the imposition of death sentences. Prohibitions of trade in products that might be used in executions, such as the decision of the European Union in December 2011 to block the export of specific drugs to the United States, offer an example of how such non-cooperation can function.⁴⁸

106. If abolitionist States require more guidance on what sort of assistance might constitute unlawful complicity in the death penalty, a non-exhaustive list should be drawn up by OHCHR detailing what assistance might be proximate enough to engage responsibility under the International Law Commission's Articles on State Responsibility. The United Nations Office on Drugs and Crime (UNODC) has already suggested that, for example, even training border guards who are responsible for the arrest of drug-traffickers ultimately sentenced to death "may be considered sufficiently proximate to the violation to engage international responsibility".⁴⁹

107. In addition to bilateral assistance, States may contribute to multilateral assistance programmes (where the nature of the crime regarding which assistance is provided or the likelihood of the death penalty being imposed as a result are less directly obvious to the funding State). In his 2012 report, the Special Rapporteur called for guidelines to help States to engage in cooperative drug control efforts without departing from the human rights framework, including international standards on the death penalty, and that these guidelines should also assist in making operational the standards on State responsibility in this context (see A/67/275, para. 84). UNODC has itself recognized this tension, noting that where "a country actively continues to apply the death penalty for drug offences, UNODC places itself in a very vulnerable position vis-à-vis its responsibility to respect human rights".⁴⁹

3. Particular responsibility for a State's own nationals: consular assistance

108. Several States have established specific programmes to support their nationals who are sentenced to the death penalty in other jurisdictions. For example, the Office of the Undersecretary for Migrant Workers' Affairs of the Department of Foreign Affairs of the Philippines provides legal assistance to Filipino migrant workers facing death sentences abroad. The Ministry of Foreign Affairs of Mexico also established a legal support programme, known as the Mexican Capital Legal Assistance Programme, for Mexicans facing the death penalty in the United States.

⁴⁸ Commission Implementing Regulation (EU) No. 1352/2011 of 20 December 2011.

⁴⁹ United Nations Office on Drugs and Crime (UNODC), "UNODC and the promotion and protection of human rights", position paper, 2012. Available from www.unodc.org/documents/justice-and-prison-reform/UNODC_HR_position_paper.pdf p. 10.

Between its inception in 2000 and February 2014, the programme intervened in 1,001 cases of first-degree murder and the interventions led to the prevention or reversal of the death penalty in 878 cases.⁵⁰ Several non-governmental organizations, including those working on migrant issues, also provide legal and other support to persons facing the death penalty abroad and to their families.

109. If it can empirically be shown that the provision of consular assistance can materially diminish the likelihood of the imposition of a death sentence (and the statistics made available by Governments with specialist programmes suggests that this is the case), then a Government that, when notified, does not take all reasonable steps to provide adequate consular assistance can arguably be said to have failed in its duty of due diligence to protect its nationals from arbitrary deprivations of life.

110. If States of origin are to be understood to have a duty of due diligence with respect to the provision of assistance to their nationals when facing the death penalty abroad, then it is important that guidance be developed as to how that assistance can best be provided. As a first step, OHCHR should draw together a set of best practices with respect to the provision of consular assistance in capital cases.

111. It is important to note that none of the above descriptions of additional responsibilities on the part of the State of origin in any way diminish the responsibilities of the receiving State to take all possible steps to ensure a fair trial, whatever the status of the defendant.

D. Conclusion

112. The issue of foreign nationals has two independent but occasionally interacting implications for the application of the death penalty, firstly, in those places where it has not yet been abolished and secondly, to the extent that States that have abolished the practice continue to interact with the process elsewhere.

113. In places where it has not yet been abolished, the impact of the death penalty on foreign nationals draws attention to various structurally discriminatory dimensions to its application. Cases involving foreign nationals, with financial or linguistic barriers or sometimes explicit prohibitions, can underline the nexus between the death penalty and access to justice, which can equally impact domestic defendants.

114. At the same time, the direct responsibilities that other States have with respect to the protection of the right to life of their nationals, combined with the opportunities that States of origin have to intervene via consular services, can be seen to imply a duty of due diligence with respect to nationals potentially facing the death penalty overseas.

E. Recommendations

115. States that have not yet abolished the death penalty should establish a moratorium on executions and consider steps to move towards abolition. Where death sentences continue to be handed down, safeguards with respect to the

⁵⁰ Statement of the Ministry of Foreign Affairs of Mexico, 11 March 2014, Geneva.

imposition of the death penalty must be fully respected. Death sentences should be imposed only for the most serious crimes, namely, those involving intentional killing, and only after a trial that meets the highest standards of fairness.

116. Law enforcement officials have a duty to notify criminal suspects whom they have grounds to believe may be foreign nationals of their right to consular notification and access under the Vienna Convention on Consular Relations. This duty applies in all cases, but has potentially life-saving implications for those who may face the death penalty.

117. States that have abolished the death penalty are absolutely prohibited from forcibly transferring a person to States where they face a genuine risk of the death penalty, unless adequate, effective and credible assurances are obtained. States with long-standing moratoriums on the imposition of the death penalty (and as such are considered *de facto* abolitionist) should consider amending national laws on extradition and deportation in line with this prohibition.

118. Technical assistance provided by States in combating drug crime, whether directly or via a multilateral agency such as UNODC, must begin with the assertion that the imposition of the death penalty for drug offences is a flagrant violation of international law. Technical assistance should not be provided until assurances have been obtained that no death sentences will be imposed against individuals apprehended with the assistance of the programme and that reforms of the penal laws will swiftly be enacted in this area. In the event that such reforms do not take place within a reasonable period, the technical assistance programmes should be terminated.

119. States that have abolished the death penalty should take all reasonable steps to ensure that their citizens do not face the imposition of the death penalty overseas. Since the provision of consular assistance can materially diminish the likelihood of the imposition of a death sentence, a State that does not take all reasonable steps to provide adequate consular assistance could arguably be said to have failed in its duty of due diligence to protect its nationals from arbitrary deprivations of life.

120. OHCHR should draw up a non-exhaustive list of what assistance in criminal matters is proximate enough to the imposition of the death penalty to engage responsibility under the International Law Commission's Articles on State Responsibility. OHCHR should also develop guidance for States of origin on best practice with respect to the provision of consular assistance to their nationals potentially facing the death penalty.



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**Groups of countries in special situations: follow-up to the
second United Nations Conference on Landlocked
Developing Countries**

Implementation of the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024

Report of the Secretary-General

Summary

The present report is submitted pursuant to resolution 69/232, in which the General Assembly requested the Secretary-General to submit at its seventieth session a report on the implementation of the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024. The report provides a review of the progress made to date and presents initiatives and activities being undertaken by Member States, relevant United Nations system entities and other regional and international organizations in response to the Programme of Action, concluding with a set of recommendations.

* A/70/150.



I. Introduction

1. The Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024 was adopted at the second United Nations Conference on Landlocked Developing Countries and endorsed by the General Assembly in December 2014 by its resolution 69/137. The Programme of Action is a results-oriented and forward-looking programme that succeeds the Almaty Programme of Action: Addressing the Special Needs of Landlocked Developing Countries within a New Global Framework for Transit Transport Cooperation for Landlocked and Transit Developing Countries as the development blueprint for landlocked developing countries for the next decade. It underscores the commitment of the international community to supporting the world's 32 landlocked developing countries in dealing with challenges relating to landlockedness, remoteness and geographical isolation through the implementation of activities in the following six priority areas: fundamental transit policy issues; infrastructure development and maintenance; international trade and trade facilitation; regional integration and cooperation; structural economic transformation; and means of implementation.

2. The present report is the first to provide a review of the implementation of the Vienna Programme of Action, focusing on the key priority areas and activities being undertaken by all relevant stakeholders. It provides an analysis of the status of implementation in the six priority areas of the Programme, thus providing a benchmark against which future progress will be measured. The report concludes with policy recommendations and contains a statistical annex.

II. Overview of challenges and recent socioeconomic developments in landlocked developing countries

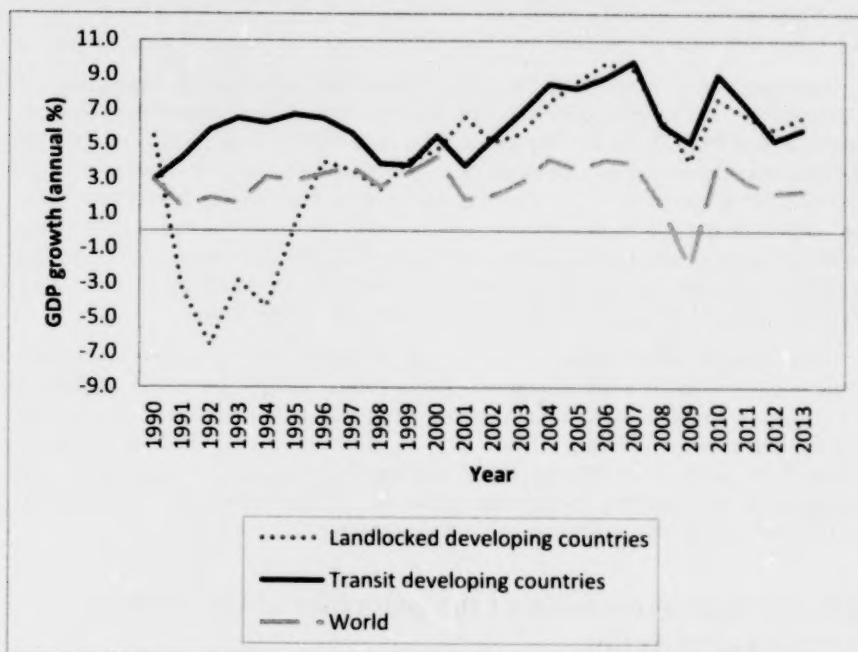
3. Landlocked developing countries are confronted by structural challenges that are directly and indirectly related to their geographical disadvantages, which inhibit their full participation in global production networks and isolate them from global markets. Owing to their long distances from the sea, landlocked developing countries face disproportionately high transport and transaction costs, which intensify their comparative disadvantages relative to other developing countries. Their unique challenges are exacerbated by poor infrastructure, low levels of development in the information and communications technology (ICT) sector and severe challenges in gaining access to energy. Landlocked developing countries further exhibit low productive capacity, which limits the addition of meaningful value to their exports and their capacity to diversify their products and markets and severely constrain their growth and development prospects.

4. These challenges notwithstanding, the past decade can be characterized as an era of general improvement of macroeconomic performance for most landlocked developing countries. In some countries such as Ethiopia, the Lao People's Democratic Republic and Uzbekistan, buoyant growth was supported by public sector-led growth strategies centred on high public investment, increased private consumption and robust foreign direct investment (FDI) inflows.

5. In 2013, the average annual percentage growth rate of gross domestic product (GDP) for landlocked developing countries increased slightly, to 6.6 per cent, from 5.9 per cent in 2012. There was, however, wide variation within the group. One

third of the countries had an annual GDP growth rate of more than 7 per cent, while 12 countries had a rate between 4 and 7 per cent, and the remaining 9 had a rate below 4 per cent. Looking ahead, given that the concentration of fuel exports in the export structures of the countries is very high (an average of 56 per cent), average economic growth may be negatively affected by plummeting global fuel prices.

Figure I
GDP growth of landlocked developing countries (annual percentage)



Source: based on World Bank data.

6. Despite average annual economic performance being generally favourable for landlocked developing countries over the past decade, these countries are among the poorest of the developing countries. In 2013, their GDP per capita was only about 32 per cent of the global average. Relative to transit developing countries and for the same year, their GDP per capita was about \$1,700 lower. Further examination of the data reveals that three of the five poorest countries in the world, as measured by GDP per capita, are landlocked developing countries. In addition, between 2003 and 2012, one third of the population of landlocked developing countries was living on less than \$1.25 per day (in terms of purchasing power parity). In some countries, average poverty levels over the same period exceeded 60 per cent.

7. In 2013, landlocked developing countries also ranked among the countries with the lowest levels of human development as measured by the human development index, a composite measure that incorporates life expectancy, education and income. Of the 15 countries with the lowest human development index in 2013, 8 were landlocked developing countries. The variation within the

group was also very high. While the median human development index was 0.56, the highest of the group was 0.76 and the lowest was 0.34.

8. Landlocked developing countries are also negatively affected by their high cost of trade, which is double that of transit developing countries. The real costs of trade, including transport and other costs of doing business internationally, are important determinants of a country's ability to participate fully in the world economy. It is thus not surprising that landlocked developing countries have generally faced greater difficulties than coastal countries in expanding international trade. Their share of global exports was estimated to have been only 1.2 per cent in 2014, compared with 33 per cent for all developing economies (excluding China).

9. Resources for investment in most landlocked developing countries are predominantly of foreign origin, with the main sources being official development assistance (ODA), FDI and remittances. It is therefore a major concern that net ODA receipts, expressed as a percentage of gross national income, have continued to decline. On average, net ODA receipts declined by half between 2003 and 2013, from approximately 8.2 to 3.5 per cent. Over the same period, FDI flows significantly increased, although the trend has been downward since 2011. Personal remittances are also becoming increasingly important for landlocked developing countries. In 2013, however, a decrease of 12 per cent was recorded.

10. Furthermore, and relative to 2011, the external debt stock of landlocked developing countries as a percentage of gross national income increased slightly in 2013, from an average of 42.8 to 43.5 per cent, while that of transit developing countries increased on average from 27.1 to 27.9 per cent. While a country's external debt stock can help to close the gap between domestic savings and investment, it can lead to growing uncertainty about actions and policies to which Governments may resort in order to meet their debt-servicing obligations.

III. Status of implementation of the priorities of the Vienna Programme of Action

A. Priority 1: fundamental transit policy issues

11. The first specific objective is to reduce travel time along corridors, with the aim of having transit cargo move between 300 and 400 km within 24 hours. There are currently no regularly updated data available for all regions that can be used to closely monitor this specific objective, with the exception of that of the Central Asia Regional Economic Cooperation Programme, presented in table 1. The data show that all corridors in Central Asia have reached this specific objective.

Table 1
Travel time along Central Asian corridors in 2013 (km per 24 hours)

	Road corridor speed with delays
Entire region	624
Corridor 1 (connecting the Russian Federation to China via Kazakhstan and Kyrgyzstan)	672
Corridor 2 (connecting Azerbaijan, China, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan)	576
Corridor 3 (connecting Afghanistan, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Uzbekistan)	528
Corridor 4 (connecting the Russian Federation to East Asia via China and Mongolia)	360
Corridor 5 (connecting Afghanistan, China, Kyrgyzstan, Pakistan and Tajikistan)	432

Source: Asian Development Bank.

12. According to data from a 2009 World Bank publication, *Transport Prices and Costs in Africa*, transit speeds from seaport to final destination for most corridors were much less than 300-400 km/24 hours. The transit speed averaged from 144 km/24 hours in West and Central Africa to 192 km/24hours in East Africa and 288 km/24 hours in Southern Africa.

13. The logistics performance index provides important information for monitoring the second specific objective: to reduce the time spent at borders. The index is based on six dimensions of trade, including customs performance, infrastructure quality and timeliness of shipments. Landlocked developing countries have a lower index, both overall and for all components, compared with transit developing countries (see table 2).

Table 2
Average logistics performance index (2014)

	Overall logistics performance index score	Logistics performance index components					
		Customs	Infrastructure	International shipments	Logistics quality and competence	Tracking and tracing	Timeliness
Landlocked developing countries	2.49	2.35	2.31	2.51	2.45	2.47	2.83
Transit developing countries	2.69	2.45	2.51	2.70	2.63	2.74	3.10

Source: World Bank.

14. Landlocked developing countries and transit countries have been implementing initiatives to speed up border-crossing, including one-stop border posts, electronic single-window facilities, the pilot use of permits for transit by members of the Organization of the Black Sea Economic Cooperation, TIR carnets, the Automated System for Customs Data and regional third-party motor vehicle insurance. Those initiatives notwithstanding, more effort is needed to improve the

movement of goods across borders through the effective implementation of existing programmes and new initiatives.

15. The third specific objective is aimed at reducing the time spent at intermodal points, i.e. the points of transfer from rail to road or from port to rail or road. Data to measure progress against that specific objective are not readily available or regularly collected. Available data are from specific studies and do not include all landlocked developing countries. A 2012 World Bank study of Africa showed that, excluding Durban, South Africa, and Mombasa, Kenya, the average cargo dwell time for most ports was close to 20 days, whereas it was about 4 days for most large ports in East Asia and in Europe. More efforts are needed to reduce the port dwelling times, and there is a need to capture and regularly update data relating to that specific objective.

16. In the Vienna Programme of Action, landlocked developing countries and transit countries are called upon to accede to and ratify relevant international, regional and subregional conventions. The current status of ratification of selected important international legal instruments by landlocked developing countries and transit countries, presented in table 3, demonstrates the need for increased ratifications in order to fully implement activities in this priority area.

Table 3

Status of accession to or ratification of selected United Nations conventions by landlocked developing countries and transit countries as at 30 June 2015

<i>Convention</i>	<i>Number of landlocked developing countries</i>	<i>Number of transit countries</i>
Convention on Road Traffic (1968)	13	13
Convention on Road Signs and Signals (1968)	8	10
Customs Convention on the International Transport of Goods under Cover of TIR Carnets (1975)	11	5
Customs Convention on the Temporary Importation of Commercial Road Vehicles (1956)	6	3
Customs Convention on Containers (1972)	6	3
International Convention on the Harmonization of Frontier Controls of Goods (1982)	11	3
Convention on the Contract for the International Carriage of Goods by Road (1956)	10	2
Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (1999)	16	20
World Trade Organization Trade Facilitation Agreement	1*	0

Source: Economic Commission for Europe, World Customs Organization and World Trade Organization (WTO).

* Ratified by a second landlocked developing country on 6 August 2015.

B. Priority 2: infrastructure development and maintenance

17. The focus within the priority area is on transport infrastructure and on energy and ICT infrastructure.

18. The latest data available on road infrastructure, presented in table 2 of the annex, indicate that landlocked developing countries have relatively poor road networks compared with their transit country neighbours. Although they have made much effort to expand and upgrade their road transport infrastructure, it is important that those efforts be accelerated.

19. Data on railway infrastructure in landlocked developing countries show that railway networks expanded in 7 countries between 2009 and 2013, but remained stagnant or shrank in 12 countries. Where feasible, it is important to establish or improve railway networks because transport via railways is a low-cost option suited to the export needs of landlocked developing countries and also generates less carbon emissions and congestion than transport via roads.

20. The Asian Highway network consists of 143,000 km of standardized roadways, crisscrossing 32 countries in Asia, with linkages to Europe. Some 29 per cent of roads in the network are categorized as class III roads. Those roads have two lanes or fewer and are not universally paved. In Latin America, the road networks in landlocked developing countries require upgrading. In Africa, the Trans-African Highway, while having a total length of 54,120 km distributed along nine corridors, is still missing substantial links, along which there are tracks that are rendered impassable or hazardous after rains or sandstorms or owing to the accumulation of rocks and sand. There are more than 26,362 km of missing links in the rail network of Africa and more than 10,500 km of missing links in the Trans-Asian railway network. It is important to close the missing links in road and rail networks in regions with landlocked developing countries to improve connectivity for those countries.

21. Landlocked developing countries fall behind other groups of countries in terms of access to energy. In 2010, the average percentage of the population with access to electricity in landlocked developing countries was 42 per cent, compared with 73 per cent in transit developing countries and 81 per cent for the world. When the data were further disaggregated into rural and urban populations, about 74 per cent of those in urban areas of landlocked developing countries had access to electricity, compared with a much lower figure of 33 per cent for rural areas. Disaggregation of the data revealed that, in more than one third of landlocked developing countries, less than 17 per cent of the population had access to electricity. More efforts are needed to expand access to reliable and modern energy services in landlocked developing countries.

22. In the Vienna Programme of Action, landlocked developing countries are called upon to develop national broadband policies. According to the 2014 report of the Broadband Commission for Digital Development, about 70 per cent of landlocked developing countries have formulated national broadband policies. It is important that those that have not yet done so develop such policies and ensure that they are fully implemented.

23. Landlocked developing countries experienced strong growth over the past decade in ICT, in particular mobile communications, for which subscriptions grew

twenty-fold. By contrast, although growth in access to the Internet increased steadily, the percentage of those with access remained low in most landlocked developing countries, with an average of 20 out of 100 people being Internet users in 2013. That average masks important disparities among those countries, with the highest recording an average of 61.2 users out of 100, compared with 1.3 out of 100 in the lowest. Limited access to broadband, high prices, unreliable energy supplies and poor access to computers have restricted access to the Internet. More efforts are required to improve the required infrastructure and to develop relevant policy and regulatory frameworks in order to make significant strides towards reaching the specific objective of promoting open and affordable Internet access for all.

24. Closing the existing infrastructure gap in landlocked developing countries and transit developing countries is central to the successful implementation of the Vienna Programme of Action. It will require financing from all sources, including public, private, public-private partnerships, ODA and innovative sources. Data and analysis from the Economic Commission for Latin America and the Caribbean (ECLAC) show that the current level of public and private infrastructure investment in the region is not sufficient to provide the infrastructure that the region needs for its sustainable development. According to ECLAC estimates, each country in the region should annually invest 6.2 per cent of its GDP to satisfy its infrastructure demands in the period 2012-2020. However, preliminary figures on public and private investment in infrastructure show that, on average, only 2.7 per cent of regional GDP was thus allocated in the past decade.

25. In Africa, the Programme for Infrastructure Development in Africa is supporting energy, transport, transboundary water and ICT projects that are estimated to cost \$67.9 billion for the period 2012-2020. The Presidential Infrastructure Champion Initiative of the New Partnership for Africa's Development is supporting eight projects championed by African Heads of State and Government. Through South-South cooperation, China has supported infrastructure investment in several African landlocked developing countries, and the newly formed New Development Bank is a new source of resources for infrastructure development.

26. The Asian Infrastructure Investment Bank was launched in China as an international financial institution to provide financing for infrastructure projects in Asia. The Infrastructure Fund of the Association of Southeast Asian Nations, established in 2013, is an innovative initiative to mobilize the region's resources for infrastructure development. The Asian Development Bank (ADB) has also been supporting investment in infrastructure development in the region. For example, between 1992 and 2010, its Greater Mekong Subregion Economic Cooperation Programme had invested some \$15 billion in projects covering subregional roads, airports and railways, as well as power facilities, tourism infrastructure and communicable disease prevention. The Programme's regional investment framework pipeline of potential projects for the period from 2013 to 2022 includes more than 200 projects in 10 sectors, with an estimated investment value in excess of \$50 billion. The number and value of projects in the Central Asia Regional Economic Cooperation Programme that are supported by ADB have grown from 6 projects worth \$247 million in 2001 to 158 projects worth approximately \$24.6 billion in 2014.

27. According to the Organization for Economic Cooperation and Development (OECD), ODA that includes both concessional and non-concessional flows from

bilateral and multilateral donors, disbursed by development partners to landlocked developing countries for infrastructure development and maintenance, totalled approximately \$6.7 billion in 2013. The largest providers were the World Bank, Japan, United States and the Asian Development Bank. In 2013, the largest recipients were Kazakhstan, Afghanistan, Ethiopia and Azerbaijan. Most of the resources went to the transport and storage sectors.

C. Priority 3: international trade and trade facilitation

28. The focus within the priority area is on international trade and trade facilitation. At the global level, efforts must be made to conclude the Doha Development Round of trade negotiations, giving full attention to the needs of developing countries, including landlocked developing countries. WTO members are taking steps to conclude a work programme on the remaining Doha Round issues.

29. With regard to international trade, the steady expansion of merchandise exports from landlocked developing countries slowed rapidly in 2012 and 2013. In 2014, exports totalled an estimated \$226 billion, a fall of 1.8 per cent from the previous year. Similarly, merchandise imports by landlocked developing countries, which totalled \$218 billion in 2014, also experienced negative growth. This slowdown was mainly due to the prolonged sluggish growth and downward trending of commodity prices.

30. In 2014, exports from landlocked developing countries represented 1.2 per cent of global exports, having remained near that level since 2011. However, only two countries captured half of the export earnings of the group, which suggests that most of landlocked developing countries continue to be marginalized from the international trading system. In contrast, the trade in goods and services of landlocked developing countries represents, on average, more than 70 per cent of their GDP. Therefore, notwithstanding their geographical locations and high transport costs, landlocked developing countries appear to be highly dependent upon trade for their economic development.

31. Exports from landlocked developing countries are increasingly highly concentrated on just a handful of export products, in particular raw material commodities such as minerals, agricultural products and fuel, which have little or no value added to them. The export concentration index of landlocked developing countries rose from 0.20 in 2003 to 0.36 in 2013. By comparison, the index for all developing countries stands at just 0.13. Higher value added products, manufactured goods and services exports, such as tourism, ICT, finance and banking, present an avenue for landlocked developing countries to reduce the cost of trade and vulnerability to external shocks, including commodity price fluctuations.

32. With regard to trade facilitation, some tangible progress has been made by many landlocked developing countries, including through further simplification and harmonization of customs, of border and transit procedures, and of formalities and trade facilitation measures, leading to a reduction of the time spent and documents required for export and import. According to the World Bank, the time to export a container of cargo decreased between 2005 and 2014 in 24 landlocked developing countries. The number of documents required to export goods from landlocked developing countries decreased in 12 such countries; the number required to import

goods fell in 16 such countries. Those positive developments notwithstanding, it still takes landlocked developing countries 40 days on average to export, compared with only 22 days for transit developing countries.

33. Landlocked developing countries continue to face much higher trade and transport costs. In 2014, the average cost for such countries to export and import was \$3,443 and \$4,343, respectively, compared with \$1,301 and \$1,559 for transit developing countries. Furthermore, since 2010, export and import costs for landlocked developing countries have risen by 25 and 29 per cent, respectively, compared with just 6 and 7 per cent for transit developing countries. Such high costs prevent landlocked developing country exports from becoming truly competitive in world markets.

34. As indicated under priority 1, landlocked developing countries exhibited the weakest logistics performance in 2014. The limited efficiency of customs and border management and shortfalls in the quality of trade and transport infrastructure are still factors that constrain the capacity of landlocked developing countries to ensure the efficiency of their logistics facilities and services.

35. Furthermore, preliminary analysis from the monitoring and evaluation exercise for the fifth Global Review on Aid for Trade, to which 16 landlocked developing countries responded, has revealed that landlocked developing countries consider border procedures and network infrastructure to be the most important sources of trade costs. In addition, trade facilitation was one of the priorities for Aid-for-Trade assistance that was highlighted by landlocked developing countries.

36. An important step forward in ensuring a common platform for the implementation and widespread use of trade facilitation measures at the global level was the adoption of the WTO Trade Facilitation Agreement. The Agreement will enter into force once it is ratified by two thirds of the WTO membership. As at 6 August 2015, 12 members, including 2 landlocked developing countries, had ratified the Agreement and more than 40 had indicated their intent to do so in the near future.

37. The main objective of the Agreement is to expedite the flow, release and clearance of goods through borders and to reduce trade transaction costs. Of particular importance for landlocked developing countries are: provisions in the Agreement covering goods in transit and requirements regarding customs-related fees, procedures and documentation; transparency; trade facilitation measures; and improving cooperation between national customs authorities and border agencies. In addition, the Agreement contains innovative provisions on special and differential treatment for developing countries.

38. It is crucial that development partners provide the financial and technical assistance to developing countries, in particular landlocked developing countries, necessary to implement the provisions of the Agreement effectively and identify the needs of developing countries. Since 2013, the WTO secretariat, in cooperation with other international organizations, has supported 15 landlocked developing countries in assessing their trade facilitation needs and priorities. In addition, some international organizations, many of which are already supporting landlocked developing countries on trade-related matters, have jointly committed themselves to assisting developing countries in implementing the Agreement.

39. As at 31 May 2015, of the 66 notifications of Category A commitments — those provisions that countries will implement by the time the Agreement enters into force — received by WTO, 9 had been made by landlocked developing countries and 13 by transit developing countries. Six transit countries had indicated that they were ready to fully implement article 11 on freedom of transit, while another four were ready to partially implement it. It is important that all countries work to ratify the Agreement as soon as possible and that developing countries notify WTO of their Category A commitments.

40. At the national level, committees on trade facilitation are important tools for analysing, negotiating and implementing trade facilitation commitments. To date, 17 landlocked developing countries have established national trade facilitation committees or bodies. Landlocked developing countries should ensure that all relevant stakeholders, including the private sector, are involved in those bodies. In addition, 13 of the 16 landlocked developing countries that provided notification to the WTO indicated that they had mainstreamed trade facilitation as a priority in their national development strategies.

D. Priority 4: regional integration and cooperation

41. For landlocked developing countries, close cooperation with transit countries in the region is a necessity for enhancing their connectivity and competitiveness, reaching international markets and reaping the benefits of globalization, thereby leading to collective benefits in terms of growth opportunities and increased FDI flows to the region. An important area for promoting regional integration is through regional infrastructure activities and the development of transport corridors, which have the potential to address the challenges arising from a fragmented approach to national transport policies.

42. Landlocked developing countries have increasingly participated in bilateral and plurilateral regional trade agreements. According to WTO data, as at April 2015, such countries participated in an average of 3.8 regional trade agreements. Those in Europe and Asia were party to an average of 5.4 regional trade agreements, compared with 2.5 agreements for those in Africa. The Plurinational State of Bolivia and Paraguay participated in four and three regional trade agreements, respectively. According to the United Nations Conference on Trade and Development (UNCTAD), by the end of March 2015, landlocked developing countries had signed an average of 20 bilateral investment agreements and seven other international investment agreements. It is important that the agreements that landlocked developing countries enter into include a core focus on inclusive growth and sustainable development.

43. In Africa, regional integration and cooperation are among the strategic priorities of policymakers. There are some 30 regional trade agreements, including those of the eight regional economic communities recognized by the African Union, 7 of which include landlocked developing countries. Overall, however, developments on the ground have been sluggish, and the share of intra-African trade has hovered at just around 12 per cent of total African trade. The establishment of a larger regional trade agreement — the Tripartite Free Trade Area Agreement — has been ongoing. The Agreement includes 26 countries (10 of which are landlocked developing countries) and builds on the agreements already in place within the

Common Market for Eastern and Southern Africa (COMESA), the East African Community and the Southern African Development Community. In addition, the continental free trade area that is planned to be established in 2017 will further deepen integration.

44. Within the regional economic communities, many efforts have been made to adopt common programmes and harmonize policies on trade, transport and border-crossing procedures and to promote border cooperation, including the ECOWAS joint border post programmes, the Customs Management Act of the East African Community and the COMESA Regional Customs Transit Guarantee scheme.

45. Some progress is being made within the subregions to enhance energy cooperation and the connectivity of landlocked developing countries. For example, COMESA has launched an initiative to promote regional cooperation in energy development, trade and capacity-building, and the Eastern Africa Power Pool has developed a regional power master plan and grid code.

46. The Eurasian Economic Union was established in 2015. It provides for free movement of goods, services, capital and labour, and the pursuit of coordinated, harmonized and unified policies in Europe and Asia. The members of the Union comprise Armenia, Belarus, Kazakhstan and the Russian Federation; Kyrgyzstan is in the accession process.

47. The Trans-Asian Railway and Asian Highway networks connect the landlocked developing countries of Europe and Asia to internationally recognized regional corridors. Various other projects and agreements support the efforts of landlocked developing countries to enhance connectivity in the region, ensure harmonized policies and speed up transit transport. In September 2014, States members of the Shanghai Cooperation Organization signed the Intergovernmental Agreement on Establishment of Favourable Conditions for International Road Transport. A framework agreement for energy cooperation on electricity was signed in November 2014 by the States members of the South Asian Association for Regional Cooperation, which includes the landlocked developing countries of Afghanistan, Bhutan and Nepal. Two other agreements, on regional railways and vehicular traffic, have also been prepared. Other important agreements affecting landlocked developing countries include the transit and transport agreements within the Economic Cooperation Organization, the Transport Corridor Europe-Caucasus-Asia, the Greater Mekong subregion and the Black Sea region.

48. As part of a continuing process of integration in South America, the constitutive treaty of the Union of South American Nations, an intergovernmental union integrating MERCOSUR and the Andean Community, entered into force in 2011. The landlocked developing countries of the Plurinational State of Bolivia and Paraguay are both members. The Initiative for the Integration of Regional Infrastructure in South America, which has coordinated the development of transport, energy and telecommunications infrastructure in South America since 2000, has been incorporated into the institutions of the Union of South American Nations. According to ECLAC, in 2012, the Plurinational State of Bolivia and Paraguay accounted for 16 per cent (\$19.25 billion) of total investment within the Initiative. By May 2013, \$2.926 billion had been put allocated to the completion of rail and road transport projects under the Initiative in landlocked developing countries.

49. It is essential that regional integration efforts in the regions with landlocked developing countries focus not only on cooperation on trade, trade facilitation, investment and the deepening of regional connectivity, but also on research and development and industrial policies that would foster real structural change and growth in such countries. In that regard, the transformation of transport corridors into development corridors should be encouraged through the creation of industries, businesses, social facilities and other ancillary infrastructure in conjunction with transport infrastructure. That would help to stimulate social and economic development in areas surrounding transport routes. The sharing of experience and information between landlocked developing countries and their transit neighbours should also be a component of regional integration and cooperation efforts.

E. Priority 5: structural economic transformation

50. It is imperative that landlocked developing countries structurally transform their economies if sustained economic growth and poverty eradication are to be achieved in the next decade. Structural transformation is a process that involves the reallocation of economic activity from low value-added and low productivity activities and sectors to those of higher value-added and high productivity.

51. On average, agriculture in landlocked developing countries exhibits a declining share of value-added as a percentage of GDP (fig. II). Manufacturing has also been declining, albeit at a slower rate relative to the agriculture sector. Between 2003 and 2013, manufacturing declined by about 3 per cent, while the decline in agriculture was double that of manufacturing. At the same time, the trend in the share of the services sector moved in the opposite direction, with an average increment of about 4 per cent. This implies that landlocked developing countries are undergoing de-industrialization. In transit developing countries, on the other hand, the trend is somewhat similar, but the share of manufacturing is much higher than that of landlocked developing countries (fig. III).

52. The degree of de-industrialization being experienced by landlocked developing countries with very low levels of per capita GDP is striking. Average GDP per capita for landlocked developing countries rose from \$3,300 in 2003 to approximately \$5,300 in 2013. These income levels were much lower than those at which advanced economies began to de-industrialize, which were between \$9,000 and \$11,000 at 1990 prices. This means that landlocked developing countries are experiencing what may be termed "premature de-industrialization"; they are running out of industrialization opportunities sooner and at much lower levels of income than early industrialized nations.

53. Furthermore, the declining share of manufacturing in the output of landlocked developing countries is of concern given that manufacturing has historically been at the core of economic growth and transformation. Manufacturing also offers greater opportunities than other sectors to accumulate capital, exploit economies of scale and foster technological change. Industrialization is more important for landlocked developing countries relative to coastal countries because it enables them to alleviate the impediments arising from their landlocked position. For example, through industrialization, landlocked developing countries are able to produce goods with a higher value-to-weight ratio, which reduces the relative cost of

transport. Therefore, the development of manufacturing is vital for the ability of landlocked developing countries to compete in global markets.

Figure II

Value added shares by sector of economic activity in landlocked developing countries (percentage of GDP) 1990-2013

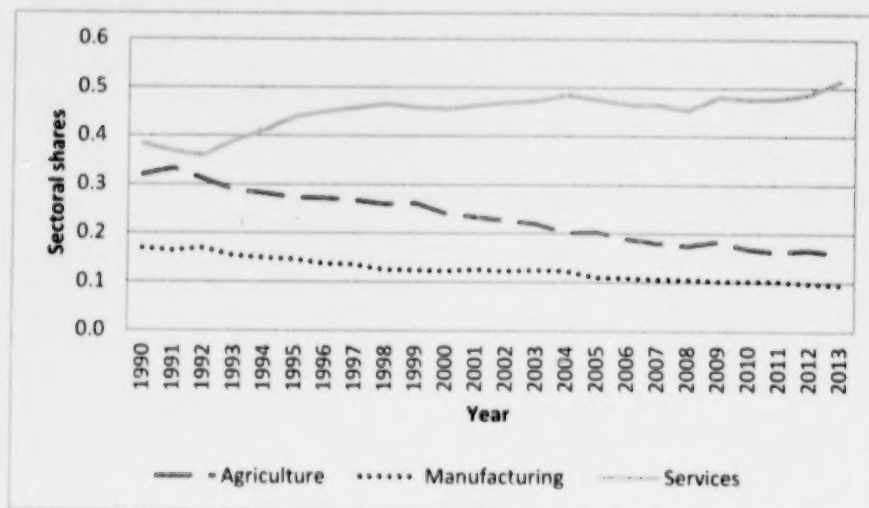
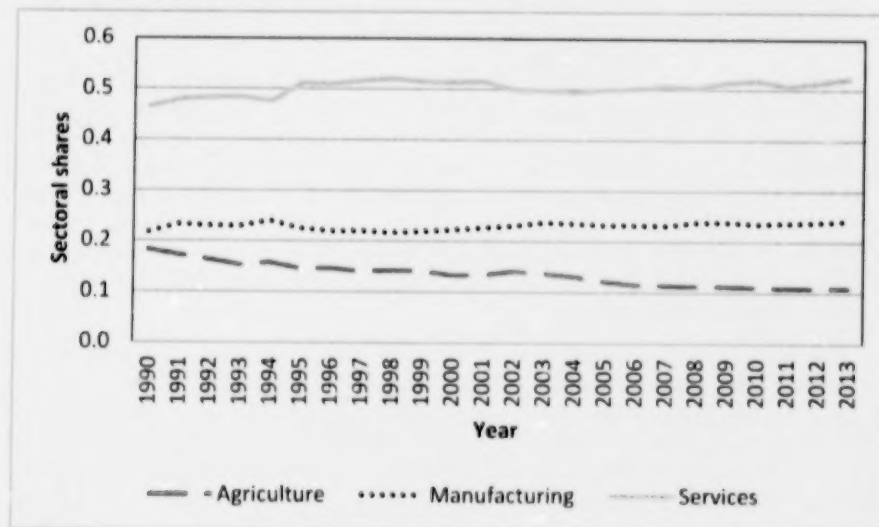


Figure III

Value added shares by sector of economic activity in transit developing countries (percentage of GDP) 1990-2013



Source: World Bank.

54. The share of high-technology exports as a percentage of manufactured exports in landlocked developing countries is only about 20 per cent. Low technology content is a significant impediment to the ability of landlocked developing countries to compete in global markets, which further entrenches their dependence on primary and raw material commodities. To develop their manufacturing sectors, landlocked developing countries need to move from lower to higher levels of technology.

55. Structural transformation also facilitates employment shifts towards manufacturing-related industries. The latest employment data for landlocked developing countries reveal that a higher proportion of the workforce is employed in either the agriculture or services sector. Recalling that structural transformation fuels the capacity of an economy to constantly generate new and dynamic activities that are characterized by higher productivity, the employment data provide evidence of the inherent bottlenecks that may still exist in landlocked developing countries. Because many landlocked developing countries are rich in natural resources, they can take advantage of those resources to create more industries that would provide decent and well-paying jobs to more of their citizens. Governments should encourage the development of labour-intensive sectors and technologies. Doing so requires an appropriate alignment of educational goals with industrial strategies and the demand for labour.

56. As indicated in paragraph 31 above, the exports of landlocked developing countries are highly concentrated in a few products, mainly in the export of primary commodities (25.8 per cent) and fuel (55.9 per cent) (see fig. IV), while an overwhelming proportion of imports are manufactured products (70 per cent) (see fig. V). That level of concentration exposes those countries to the damaging effects of fluctuations in global demand and commodity prices.

Figure IV

Aggregate structure of exports from landlocked developing countries, 2013

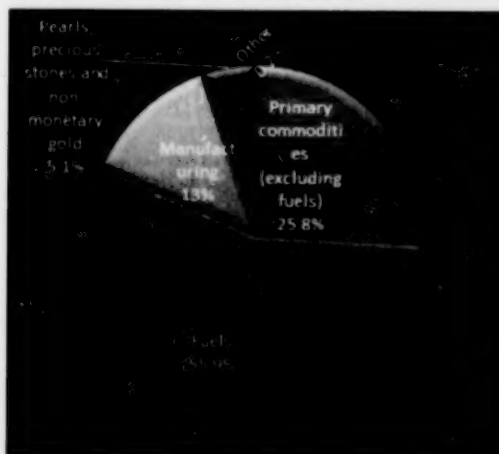
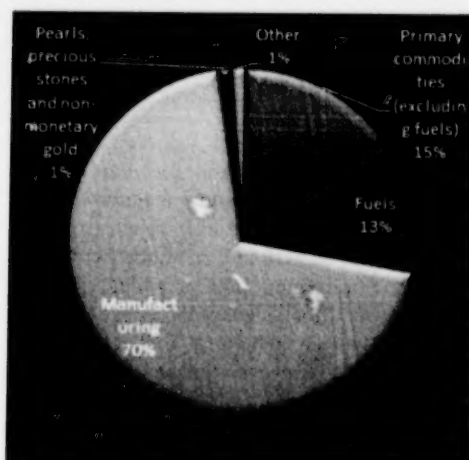


Figure V
Aggregate structure of imports by landlocked developing countries, 2013



Source: UNCTAD database.

57. Small and medium-sized enterprises comprise the bulk of the private sector and are major contributors to employment creation, but many of them lack the capital and expertise necessary to expand their activities. The value of financial resources provided to the private sector by financial corporations, including loans, purchases of non-equity securities and trade credits, is equivalent to only about 30 per cent of GDP in landlocked developing countries. In contrast, the value of domestic credit to the private sector in transit developing countries is equivalent to more than 80 per cent of GDP. It is imperative to bring financing for private enterprises, especially small and medium-sized enterprises, to the forefront of the development strategy in landlocked developing countries.

F. Priority 6: means of implementation

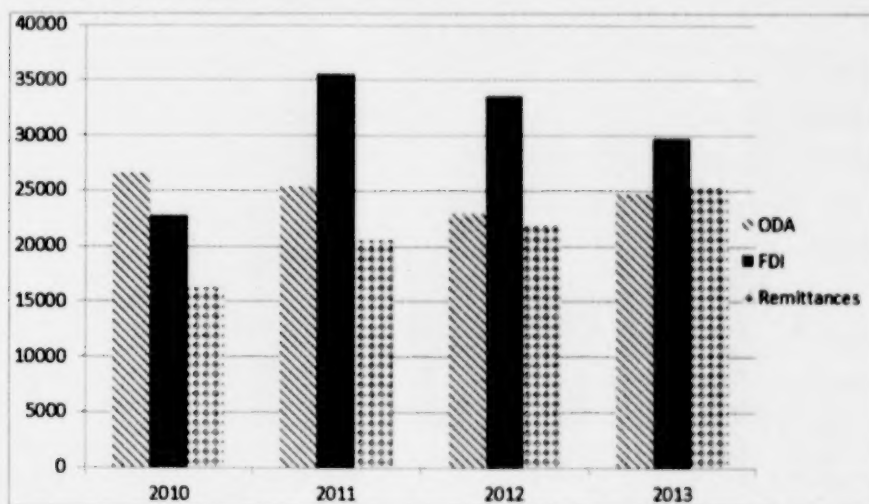
58. It is recognized in the Vienna Programme of Action that the development of a country is the primary responsibility of that country itself. Also underscored is the importance of strengthened and expanded partnerships between landlocked developing countries, their transit neighbours, their development partners and other stakeholders for the successful implementation of the Programme. Development partners are encouraged to provide targeted technical and financial support, as appropriate, towards the implementation of the specific actions in the Programme. Strengthened partnerships within the context of South-South and triangular cooperation and public-private partnerships, and with the relevant international and regional organizations and between public and private sector actors, is particularly important for raising the additional financial resources that are required.

59. Figure VI shows inflows of ODA, FDI and remittances to landlocked developing countries between 2010 and 2013. Although net ODA to those countries in 2013 increased slightly (7.6 per cent) over 2012, from \$23 to \$24.7 billion, it was still below the 2010 level of \$26.5 billion.

Figure VI

ODA, FDI and remittances to landlocked developing countries, 2010-2013

(Millions of United States dollars)



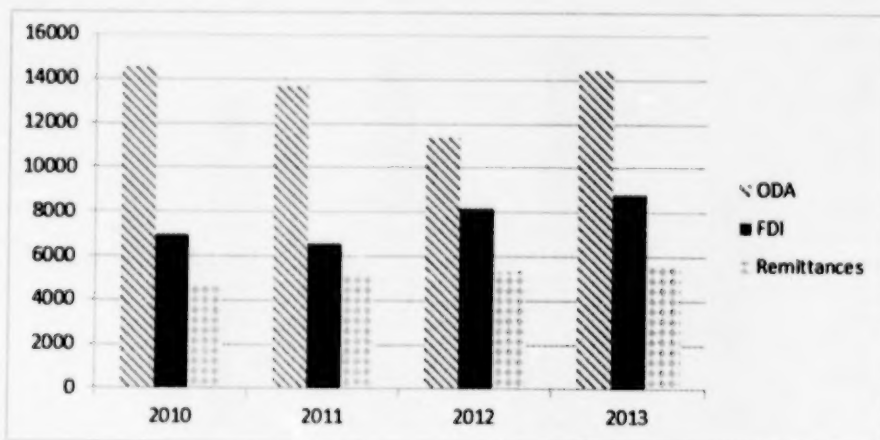
Source: OECD, UNCTAD and World Bank.

60. ODA flows remain a major source of external financing for many landlocked developing countries, in particular for those in Africa, as illustrated in figure VII.

61. The slowdown in the registration of development cooperation funds from traditional donors in recent years is indicative of the fragility of international aid and of internationally agreed promises to increase it. The volume of aid overall remains far from sufficient compared with the amounts needed to support internationally agreed goals, including the Vienna Programme of Action.

Figure VII
ODA, FDI and remittances to landlocked developing countries in Africa, 2010-2013

(Millions of United States dollars)



Source: OECD, UNCTAD and World Bank.

62. South-South and triangular cooperation have played an important role in complementing ODA to landlocked developing countries through their contributions, as appropriate, to the sharing of best practices, human and productive capacity-building, investment in infrastructure, financial and technical assistance and technology transfer on mutually agreed terms. More support is needed to ensure the achievement of the Vienna Programme of Action.

63. Aid for Trade, in combination with complementary policies, has contributed to lower trade costs and given rise to additional infrastructure, better border institutions and regulatory procedures and enhanced capacity. Aid for Trade, along with the commitment of landlocked developing countries to necessary reforms, is also important in linking those countries to, or advancing their position in, global and regional value chains. Aid-for-Trade disbursements to landlocked developing countries stood at \$6.8 billion in 2013.

64. It is also important to note that, among donors, the European Union has continued to support landlocked developing countries in addressing their development challenges. Key areas of support include trade facilitation, transit, transport infrastructure and regional integration. Within the framework of the Vienna Programme of Action, the Union has committed itself to maintaining its current level of support to trade facilitation of €400 million for the five years following the signature of the WTO Trade Facilitation Agreement. Twenty-seven landlocked developing countries are among the ninety-six developing countries that currently enjoy preferences under the Union's Generalized Scheme of Preferences, which provides developing countries with unilateral trade preferences. Four landlocked developing countries also benefit from the Special Incentive Arrangement for Sustainable Development and Good Governance of the European Commission. Between 2007 and 2012, the Union provided €11.3 billion in funding

to projects in landlocked developing countries, of which 62 per cent was allocated to projects in Africa.

65. FDI plays an essential role in landlocked developing countries, through the building and strengthening of productive capacity, export growth, technology transfer, the diffusion of productive know-how, managerial skills and capital, the creation of wealth, the opening up of new markets for high value-added products and services and employment generation. FDI inflows to landlocked developing countries in 2013 fell by 11 per cent, to \$29.7 billion. Following a slight decrease in 2012, this marked the first time that FDI for that group of countries had fallen for two years in a row.

66. In 2013, flows of remittances to landlocked developing countries reached \$25.2 billion and exceeded official development assistance to those countries. Remittances have the potential to lift people out of poverty, fund small businesses, facilitate financial inclusion and help countries with their balance of payments and hard currency problems. There is, however, a need for supportive policies in both the sending and receiving countries to reduce transaction costs and harness the development potential of remittances.

IV. Follow-up and review

67. In the Vienna Programme of Action, Member States, in particular landlocked developing countries and transit countries, were invited to mainstream the Programme into their national and sectoral development strategies. Regional and subregional organizations, governing bodies of United Nations system entities and international organizations were invited to mainstream the Programme into their programmes of work. In that regard, the Secretary-General wrote a letter to Member States and regional and subregional organizations, inviting them to mainstream the Programme. As at June 2015, seven countries (including one landlocked developing country) and two regional development banks had responded positively. In March 2015, at their joint annual meeting, the African Union Specialized Technical Committee on Finance, Monetary Affairs, Economic Planning and Integration and the Economic Commission for Africa Conference of African Ministers of Finance, Planning and Economic Development adopted resolution 937 XLVIII on the mainstreaming of the Programme of Action by African landlocked developing countries and regional and subregional organizations (see E/ECA/CM/48/7). A similar resolution regarding Asia, resolution 71/3, was adopted at the seventy-first session of the Economic and Social Commission for Asia and the Pacific (ESCAP), held in May 2015 (E/ESCAP/RES/71/3).

68. United Nations system entities and other relevant international organizations have been providing continuous assistance to landlocked developing countries through, among other things, capacity-building programmes, advisory services, support towards transport infrastructure development and the promotion of legal instruments relating to trade and transport facilitation. The Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States coordinates activities within the United Nations system to ensure the effective implementation of the Vienna Programme of Action, including advocacy and international awareness and resource mobilization campaigns for landlocked developing countries. To that end, the

Office, in consultation with other United Nations entities and relevant international and regional organizations, prepared a road map for the implementation of the Programme to ensure coherence and better coordination among all the stakeholders in the implementation.

69. The Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, in collaboration with relevant international and regional organizations and Member States, is preparing a set of indicators to inform national, regional and global follow-up to and review of the Vienna Programme of Action. Furthermore, the Office, in partnership with the Government of Zambia, organized a high-level follow-up meeting to the second United Nations Conference on Landlocked Developing Countries. At that meeting, held in Zambia in June 2015, representatives adopted the Livingstone Call for Action for the Accelerated Implementation of the Vienna Programme of Action for Landlocked Developing Countries, in which key measures and initiatives required to accelerate the implementation of the Programme were highlighted.

70. The Economic Commission for Africa is providing support to the African regional economic communities and member States with regard to institutional frameworks for the management and operation of transit transport corridors, infrastructure development, international trade, trade and trade facilitation, regional integration and capacity-building. The Economic Commission for Europe is promoting international transport and trade facilitation and the implementation of relevant international legal instruments, norms and standards. ESCAP is providing capacity-building support to landlocked developing countries and transit countries for accession to and implementation of international conventions and formulation and implementation of subregional and bilateral agreements on transport, technical assistance with paperless transit and transport systems, regional integration and trade and trade facilitation. ECLAC is providing technical assistance to landlocked developing countries with the integration of trade and transport facilitation into national plans and with sustainable transport and logistics policies.

71. The World Bank is supporting the implementation of the Vienna Programme of Action through the issuance of publications and data sets to raise awareness and disseminate knowledge of which policies work and which do not work and by implementing technical assistance or investment projects in landlocked developing countries and transit developing countries to improve their transport, ICT connectivity, trade, trade competitiveness and energy development. The Bank provided approximately \$11 billion in loan assistance to landlocked developing countries in fiscal year 2013-2014 to promote infrastructure and transit facilitation.

72. UNCTAD is contributing through data collection, publications and studies focusing on best practices and policy lessons regarding commodity value chains, providing technical assistance on intellectual property rights, supporting competitive small and medium-sized enterprises and providing advisory services in the development of national trade facilitation plans and needs assessments for trade facilitation preparedness.

73. The International Trade Centre (ITC) has begun mainstreaming the Vienna Programme of Action into its strategic plan for 2015-2017. ITC is assisting landlocked developing countries to improve the competitiveness of small and medium-sized enterprises and to implement the WTO Trade Facilitation Agreement

through both the scheduling of commitments and in preparing bankable projects. The International Telecommunication Union is supporting landlocked developing countries to develop and implement broadband and ICT policies. The United Nations Environment Programme is supporting landlocked developing countries to reduce vehicle emissions and improve fuel economy and to create national green economy strategies.

74. WTO has launched the process of ratification and entry into force of the Trade Facilitation Agreement and the WTO Trade Facilitation Agreement Facility, which became operational in November 2014. WTO is implementing the 2014-2015 Aid-for-Trade Work Programme under the theme of "Reducing trade costs for inclusive, sustainable growth".

75. The International Road Transport Union is working on projects and activities that contribute to the implementation of the Vienna Programme of Action in the areas of transit policy, trade facilitation and infrastructure development such as the Model Highway Initiative, which aims to create an exemplary section of motorway along with ancillary infrastructure, and the TIR system. The Union also works closely with key countries to assist in their accession to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets. The Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States and the Union signed a memorandum of agreement on 15 April 2015 to undertake joint activities for the implementation of the Programme.

76. The Organization for Security and Cooperation in Europe is providing tailor-made technical assistance on border crossing facilitation and good governance in customs. The Economic Cooperation Organization is supporting transit policy, trade facilitation and infrastructure development in its subregion.

V. Conclusions and recommendations

77. The Vienna Programme of Action is a holistic and ambitious development programme that is intended to achieve rapid, inclusive and sustained economic growth along with poverty reduction for landlocked developing countries. The Programme will feature renewed and strengthened partnerships between landlocked developing countries, transit countries and development partners, as well as with United Nations system entities and other international organizations, the private sector, and within the context of North-South and South-South and triangular cooperation.

78. An important element for the effective implementation of the Vienna Programme of Action is its mainstreaming into national and sectoral development plans and the work programmes of international, regional and subregional organizations. Landlocked developing countries should take the lead in the further mainstreaming of the Programme into national strategies so as to fully implement it. Similarly, transit developing countries should also mainstream the Programme to ensure its effective implementation. Development partners, including those engaged through South-South and triangular cooperation, should accord priority to landlocked developing countries and align their support with the priorities of those countries.

79. Some United Nations system entities such as ECA and ESCAP have taken decisions to implement the Vienna Programme of Action. Further mainstreaming efforts and support are required from the United Nations, including at the national level, and by regional and subregional organizations.
80. Landlocked developing countries and transit developing countries should continue their efforts to streamline and harmonize customs and border crossing procedures and formalities, in addition to scaling up and implementing successful trade facilitation initiatives.
81. All WTO members, in particular landlocked developing countries and transit developing countries, should ratify the WTO Trade Facilitation Agreement in order to bring it into force. Adequate technical and capacity-building assistance should be extended to landlocked developing countries in order to ensure their effective implementation of the provisions of the Agreement.
82. Regional integration is a crucial instrument for landlocked developing countries to improve connectivity, competitiveness, economic growth and to link into global markets. Landlocked developing countries and transit developing countries should strengthen effective regional cooperation by strengthening intraregional trade and participation in regional frameworks and agreements, developing regional infrastructure and harmonizing regional policies.
83. Landlocked developing countries should pursue national measures aimed at increasing the share of high-value added exports, such as manufactured goods and services, with the aim of diversifying their export structures and taking full advantage of the opportunities that linking into global and regional value chains offers. Development partners should provide technical, financial and capacity-building assistance to support such efforts.
84. To facilitate structural transformation, landlocked developing countries should encourage the development of labour-intensive sectors and forms of technology through industrial and educational policies.
85. To monitor the implementation of the Vienna Programme of Action, there is a need for systematic collection of data in landlocked developing countries and transit countries in order to monitor improvements in trade facilitation and at intermodal points.
86. The Vienna Programme of Action requires more resources for investing in infrastructure development and maintenance, improving trade facilitation, increasing trade, structural transformation, addressing internal and external vulnerabilities and capacity-building. Although the landlocked developing countries have made considerable efforts to mobilize domestic resources, enormous financing gaps remain. It is important for the international community to provide more support in the form of ODA, South-South and triangular cooperation, as well as increasing the role of the private sector. It is important that international and regional development banks provide dedicated infrastructure funding for landlocked developing countries.
87. It is important that the special needs of landlocked developing countries, in particular those relating to infrastructure development, trade development

and trade facilitation, regional integration, productive capacity-building and structural transformation, are fully addressed in the implementation and follow-up of the outcome document of the United Nations summit to adopt the post-2015 development agenda and of the Addis Ababa Action Agenda of the Third International Conference on Financing for Development.

88. With consistent and dedicated efforts on the part of landlocked developing countries, supported by strong partnership and enhanced collaboration from transit countries and development partners, including global institutions, landlocked developing countries should be able to turn themselves into land-linked countries.

Statistical tables

A/70/305

Table 1

Gross domestic product, rate of growth and human development index

Landlocked developing countries	GDP (constant 2005 prices, millions of United States dollars)		GDP growth (annual percentage)	GDP per capita, PPP (constant 2011 prices, US dollars)		Human development index
	2010	2013		2010	2013	
Afghanistan	10 243	12 679	1.9	1 637	1 884	0.468
Armenia	5 918	6 875	3.5	6 508	7 527	0.730
Azerbaijan	28 310	30 631	5.8	15 950	16 593	0.747
Bhutan	1 288	1 490	2.0	6 516	7 167	0.584
Bolivia (Plurinational State of)	11 954	14 119	6.8	5 279	5 934	0.667
Botswana	12 412	15 085	9.3	13 642	16 155	0.683
Burkina Faso	7 347	8 887	6.7	1 438	1 588	0.388
Burundi	1 392	1 578	4.6	725	747	0.389
Central African Republic	1 566	1 077	-36.0	901	584	0.341
Chad	8 425	9 704	5.7	1 953	2 055	0.372
Ethiopia	20 784	27 739	10.5	1 081	1 336	0.435
Kazakhstan	77 245	92 422	6.0	19 601	22 470	0.757
Kyrgyzstan	3 056	3 589	10.9	2 790	3 121	0.628
Lao People's Democratic Republic	4 022	5 094	8.5	3 901	4 667	0.569
Lesotho	1 763	2 014	4.6	2 235	2 473	0.486
Malawi	3 874	4 333	5.2	737	757	0.414
Mali	6 972	7 285	2.1	1 664	1 589	0.407
Mongolia	3 454	5 080	11.6	7 708	10 833	0.698
Nepal	10 103	11 370	3.8	1 999	2 173	0.540
Niger	4 382	5 242	4.6	841	897	0.337
Paraguay	11 148	13 122	14.2	7 008	7 833	0.676
Republic of Moldova	3 502	4 048	9.4	3 925	4 542	0.663
Rwanda	3 847	4 725	4.7	1 262	1 426	0.506
South Sudan	10 919	6 351	13.1	3 838	1 965	..
Swaziland	2 912	3 121	3.0	5 862	5 998	0.530

Landlocked developing countries	GDP (constant 2005 prices, millions of United States dollars)		GDP growth (annual percentage)		GDP per capita, PPP (constant 2011 prices, US dollars)		Human development index	
	2010	2013	2013	2013	2010	2013	2013	2013
Tajikistan	3 181	3 945	7.4	7.4	2 110	2 432	0.607	0.607
The former Yugoslav Republic of Macedonia	7 610	7 959	2.7	2.7	11 179	11 664	0.732	0.732
Turkmenistan	13 273	18 639	10.2	10.2	10 032	13 555	0.698	0.698
Uganda	13 275	15 698	3.3	3.3	1 515	1 621	0.484	0.484
Uzbekistan	21 574	27 303	8.0	8.0	4 185	5 002	0.661	0.661
Zambia	12 647	15 318	6.7	6.7	3 451	3 800	0.561	0.561
Zimbabwe	5 202	6 725	4.5	4.5	1 484	1 773	0.492	0.492
Average, landlocked developing countries	10 425	12 289	6.6	6.6	4 780	5 380	0.556	0.556
Average, transit developing countries	277 434	331 553	5.8	5.8	6 525	7 131		

Source: United Nations Statistical Division, World Bank.

Table 2
Selected infrastructure indicators

	Roads ^a		Railways (kilometres)	Mobile cellular subscriptions (per 100 people)	Internet users (per 100 people)	Access to electricity (percentage of population)
	Percentage paved					
	2000-2011	2003-2011				
	Km		2013	2013	2013	2013
Afghanistan	23 133 (2010)	36 (2010)	..	70.7	5.9	41.0
Armenia	7 749 (2011)	..	826	112.4	46.3	99.8
Azerbaijan	18 986 (2011)	56 (2011)	2 068	107.6	58.7	100.0
Bhutan	8 366 (2011)	34 (2011)	..	72.2	29.9	72.0
Bolivia (Plurinational State of)	82 288 (2011)	12 (2011)	3 652	97.7	39.5	80.2
Botswana	25 798 (2005)	33 (2005)	888	160.6	15.0	43.1
Burkina Faso	15 304 (2011)	21 (2011)	622	66.4	4.4	13.1
Burundi	12 322 (2004)	10 (2004)	..	25.0	1.3	5.3
Central African Republic	20 278 (2010)	6.8 (2010)	..	29.5	3.5	9.5
Chad	40 000 (2006)	..	..	35.6	2.3	3.5
Ethiopia	44 359 (2007)	14 (2007)	..	27.3	1.9	23.0
Kazakhstan	97 155 (2011)	89 (2011)	14 319	184.7	54.0	100.0

	Roads ^a		Railways (kilometres)	Mobile cellular subscriptions (per 100 people)	Internet users (per 100 people)	Access to electricity (percentage of population)
	Percentage paved					
	2000-2011	2003-2011				
Kyrgyzstan	34 000 (2007)	..	417	121.4	23.4	100.0
Lao People's Democratic Republic	41 029 (2011)	14 (2009)	..	68.1	12.5	66.0
Lesotho	5 940 (2001)	..	..	86.3	5.0	17.0
Malawi	15 451 (2003)	45 (2003)	797	32.3	5.4	8.7
Mali	22 474 (2009)	25 (2009)	593	129.1	2.3	16.6
Mongolia	49 250 (2014)	24 (2014)	1 818	124.2	17.7	86.2
Nepal	19 875 (2008)	54 (2008)	59	76.8	13.3	76.3
Niger	19 267 (2010)	21 (2008)	..	39.3	1.7	9.3
Paraguay	32 404 (2011)	16 (2011)	36	103.7	36.9	97.4
Republic of Moldova	12 845 (2011)	86 (2011)	1 157	106.0	48.8	98.6
Rwanda	14 008 (2004)	19 (2004)	..	56.8	8.7	10.8
Swaziland	3 594 (2002)	..	300	71.5	24.7	35.2
Tajikistan	27 767 (2000)	..	621	91.8	16.0	100.0
The former Yugoslav Republic of Macedonia	13 983 (2011)	58 (2011)	699	106.2	61.2	99.0
Turkmenistan	59 623 (2012)	..	4 980	116.9	9.6	100.0
Uganda	70 746 (2003)	23 (2003)	2 244	44.1	16.2	14.6
Uzbekistan	81 600 (2000)	..	4 280	74.3	38.2	100.0
Zambia	66 781 (2000)	..	2 157	71.5	15.4	18.5
Zimbabwe	97 267 (2002)	..	3 427	96.3	18.5	36.9
Landlocked developing countries	1 083 642	..	45 960	65.4	20.6	42.2

Source: World Bank and ITU.

^a The year that corresponds to the figure is shown in parentheses.

Table 3
International trade, merchandise exports and imports

	Total exports (millions of United States dollars)		Total imports (millions of United States dollars)		Concentration index		Diversification index	
	2013	2013	2013	2013	2013	2013	2013	2013
Afghanistan	515	8 724			0.28			0.78
Armenia	1 480	4 477			0.21			0.75
Azerbaijan	31 776	11 156			0.88			0.78
Bhutan	544	909			0.34			0.78
Bolivia (Plurinational State of)	11 657	9 338			0.48			0.80
Botswana	7 608	7 544			0.79			0.89
Burkina Faso	2 356	3 900			0.53			0.82
Burundi	91	811			0.36			0.71
Central African Republic	150	250			0.36			0.78
Chad	4 100	2 800			0.92			0.81
Ethiopia	4 077	14 899			0.33			0.77
Kazakhstan	84 700	48 806			0.65			0.74
Kyrgyzstan	1 791	6 070			0.15			0.65
Lao People's Democratic Republic	2 264	3 020			0.28			0.76
Lesotho	847	2 200			0.46			0.85
Malawi	1 208	2 845			0.47			0.82
Mali	2 339	3 800			0.53			0.84
Mongolia	4 269	6 358			0.37			0.80
Nepal	863	6 452			0.14			0.70
Niger	1 600	2 020			0.47			0.84
Paraguay	9 432	12 142			0.34			0.80
Republic of Moldova	2 428	5 492			0.15			0.65
Rwanda	703	2 302			0.36			0.83
South Sudan	..	..			..			..
Swaziland	1 895	1 693			0.22			0.70
Tajikistan	1 161	4 151			0.48			0.85
The former Yugoslav Republic of Macedonia	4 267	6 600			0.17			0.64
Turkmenistan	17 000	10 000			0.49			0.81

	Total exports (millions of United States dollars)		Total imports (millions of United States dollars)		Concentration index		Diversification index	
	2013	2014	2013	2014	2013	2014	2013	2014
Uganda	2 408		5 818		0.18		0.72	
Uzbekistan	12 643		12 998		0.25		0.75	
Zambia	10 594		10 162		0.59		0.82	
Zimbabwe	3 507		4 300		0.26		0.76	
Landlocked developing countries	230 272		222 034		0.36		0.61	

Source: UNCTAD.

Table 4

Trading across borders and logistics performance

	Cost to export a container (United States dollars)		Cost to import a container (United States dollars)		Time to export (days)		Time to import (days)		Logistics performance index	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Afghanistan	5 045		5 680		86		91		2.07	
Armenia	1 885		2 175		16		18		2.67	
Azerbaijan	3 460		3 450		27		25		2.45	
Bhutan	2 230		2 330		38		37		2.29	
Bolivia (Plurinational State of)	1 440		1 745		22		28		2.48	
Botswana	3 145		3 710		27		35		2.49	
Burkina Faso	2 305		4 330		41		49		2.64	
Burundi	2 905		4 420		32		43		2.57	
Central African Republic	5 490		6 335		46		68		2.36	
Chad	6 615		9 025		70		90		2.53	
Ethiopia	2 380		2 960		44		44		2.59	
Kazakhstan	5 285		5 265		79		67		2.70	
Kyrgyzstan	4 760		6 000		63		73		2.21	
Lao People's Democratic Republic	1 950		1 910		23		26		2.39	
Lesotho	1 795		2 045		31		33		2.37	
Malawi	2 200		2 895		34		39		2.81	
Mali	2 440		4 540		26		34		2.50	

	Cost to export a container (United States dollars)		Cost to import a container (United States dollars)		Time to export (days)		Time to import (days)		Logistics performance index
	2014	2014	2014	2014	2014	2014	2014	2014	
Mongolia	2 745	2 950	44	45	2.36				
Nepal	2 545	2 650	40	39	2.59				
Niger	4 475	4 500	56	61	2.39				
Paraguay	1 850	2 275	29	30	2.78				
Republic of Moldova	1 510	1 870	23	27	2.65				
Rwanda	3 245	4 990	26	27	2.76				
South Sudan	5 335	9 285	55	130	...				
Swaziland	1 980	2 245	17	23	...				
Tajikistan	9 050	10 650	71	70	2.53				
The former Yugoslav Republic of Macedonia	1 376	1 380	12	11	2.50				
Turkmenistan	...	...	...	...	2.30				
Uganda	2 800	3 375	28	31	...				
Uzbekistan	5 090	6 452	54	104	2.39				
Zambia	5 165	7 060	51	53	2.46				
Zimbabwe	4 265	6 160	53	71	2.34				
Average, landlocked developing countries	3 444	4 344	41	49	2.49				
Average, transit developing countries	1 301	1 599	22	27	2.69				

Source: World Bank.

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Item 73 (b) of the provisional agenda*

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Strengthening the role of the United Nations in enhancing the effectiveness of the principle of periodic and genuine elections and the promotion of democratization

Report of the Secretary-General

Summary

The present report describes trends in and significant issues associated with electoral assistance provided to Member States by the United Nations system since the last report of the Secretary-General (A/68/301), dated 9 August 2013. A little over 65 Member States received electoral assistance during this period.

The report notes continuing efforts to strengthen coherence and coordination within the United Nations system, under the auspices of the focal point for electoral assistance. It also describes cooperation with non-United Nations organizations and initiatives.

With respect to gender equality in elections, the report notes a continuing upward trend in the number of women in parliament worldwide, but also points out that this improvement is not sufficient and that progress is uneven. It also describes the activities of the United Nations system in promoting the political participation of women, in supporting efforts of Member States to meet their international obligations and commitments, and in mainstreaming gender in United Nations assistance activities. The report calls on all Member States to redouble their efforts to promote women's participation in politics, noting that this goes beyond mere numbers within an elected body and includes the empowerment of women as full and active participants in voting and decision-making.

* A/70/150.



The report discusses some common challenges with regard to the credibility of elections faced by Member States and the United Nations entities that assist them. These include electoral malfeasance committed for political ends, and instances in which contestants refused to accept outcomes that were generally considered to be legitimate. Credibility is related to the extent to which both international obligations are respected and the election process is professional, accurate, impartial and transparent in all stages of its administration. At the same time, the connection between the technical quality of an election and the legitimacy of its outcomes is complex.

This report underlines that a genuine election is one in which the result reflects the freely expressed choice or choices of electors and is therefore broadly accepted. As regards increasing the likelihood that outcomes are accepted, the report points to the need to both mitigate winner-takes-all and high-stakes politics in an election and strengthen the procedural elements of the election itself. A comprehensive strategy for promoting the acceptance of results and preventing violence centred around elections involves both broad engagement by the Organization and the exercise of political will by national actors.

The report offers reflections on the ideal timing of elections in a post-conflict context; notes that it is difficult to construct a general template for determining when the circumstances are right for holding a first election; and stresses that, as democratic development is an ongoing process, it may take decades before all the conditions are comparable with those present in more mature democracies. Moreover, a discussion on timing should address the question how the legitimacy needed to govern could be established other than through an election.

The report draws attention to the fact that the level of international financial support for electoral assistance has not kept pace with the number of assistance projects, noting that some projects face significant budget gaps. It calls for more cost-effective solutions in respect of electoral assistance and greater discernment regarding the kind of assistance to be provided in each case. The report also notes that Member States are primarily responsible for organizing cost-effective elections and for pursuing strategies that will eventually allow them to be self-reliant.

Noting a continued growth in the number of organizations outside the United Nations that offer electoral assistance, the report highlights the risk of possible overcrowding in the field of international support. It encourages Member States, when requesting assistance or drafting mandates, to consider including a lead role for the United Nations in ensuring coherence and coordination among all assistance providers.

I. Introduction

1. The present report is submitted in compliance with General Assembly resolution 68/164 of 18 December 2013, in which the Assembly requested the Secretary-General to report on the implementation of that resolution and the Under-Secretary-General for Political Affairs to regularly inform Member States about requests for electoral assistance and the nature of any assistance provided. The report describes United Nations activities in the field of electoral assistance carried out since the previous report on this subject (A/68/301).

2. United Nations electoral assistance is provided only at the specific request of the Member State concerned, or based on a mandate from the Security Council or General Assembly. Before assistance is agreed and provided, the United Nations assesses the needs of the Member State to ensure that the assistance is tailored to the specific needs of the country or situation. As the Assembly has reaffirmed on many occasions, United Nations assistance should be carried out in an objective, impartial, neutral and independent manner, with due respect for sovereignty, while recognizing that the responsibility for organizing elections lies with Member States.

3. During the reporting period, the number of Member States requesting and receiving United Nations electoral assistance remained high. United Nations support has generally continued, as in previous reporting periods, to take the form of technical assistance. In addition to reporting on key activities and developments, this report reflects on some of the patterns in electoral assistance and highlights some of the challenges presented in situations in which the credibility of an election is called into question.

II. United Nations electoral assistance during the reporting period

A. Mandates

4. The question of enhancing the effectiveness of the principle of periodic and genuine elections has been in the agenda of the General Assembly since its forty-fourth session. The Assembly considered this question, including the issue of United Nations electoral assistance, on an annual basis until its fiftieth session and has been continuing its consideration of the question on a biennial basis since then.

5. The institutional arrangements for United Nations electoral assistance and the entities involved have grown and evolved since 1991, the year in which the Secretary-General designated the Under-Secretary-General for Political Affairs as focal point for electoral assistance matters, with the endorsement of the General Assembly. Today, a range of United Nations entities have mandates that refer to electoral events and support or otherwise engage in electoral support activities. In this field of diverse actors, the Assembly has repeatedly stressed the need for comprehensive coordination, under the auspices of the focal point.

6. The General Assembly, in its resolution 68/164, reaffirmed the clear leadership role of the focal point within the United Nations system, including in ensuring system-wide coherence and consistency, in strengthening United Nations institutional memory and in the development, dissemination and issuance of

electoral assistance policies. The focal point decides on the parameters for United Nations electoral assistance in a particular country and is also entrusted with maintaining the roster of electoral experts who can be quickly deployed for any United Nations assistance activity.

7. The focal point is supported by the Electoral Assistance Division of the Department of Political Affairs of the United Nations Secretariat. It recommends to the focal point the parameters for all United Nations electoral assistance, pursuant to the request of Member States, following an electoral needs assessment. The Division also advises on the design of electoral mission components or assistance projects and maintains the institutional memory of the Organization and the single roster of experts. It is also responsible for policy development. It provides, on behalf of the focal point, ongoing political and technical guidance to all United Nations entities involved in electoral assistance, including on electoral policies and good practices.

8. The United Nations Development Programme (UNDP) is the major implementing body of the Organization for support to developing electoral institutions, legal frameworks and processes and support to elections outside the peacekeeping or post-conflict context. In its resolution 68/164, the General Assembly requested UNDP to continue its democratic governance assistance programmes in cooperation with other relevant organizations, in particular those that promote the strengthening of democratic institutions and linkages between civil society and Governments.

9. In peacekeeping or post-conflict environments, electoral assistance is generally provided through components of field missions under the aegis of the Department of Peacekeeping Operations of the United Nations Secretariat or the Department of Political Affairs. Military and police components of peacekeeping missions support national law enforcement agencies in providing security for electoral processes. UNDP also frequently provides support to such field missions when they undertake to carry out their electoral assistance mandates. In countries with peacekeeping, peacebuilding or special political missions, electoral assistance is delivered in a fully integrated manner, irrespective of whether the mission is structurally integrated.

10. The Office of the United Nations High Commissioner for Human Rights continues to provide training and advice on human rights monitoring in the context of elections, supports and organizes campaigns for violence-free elections, engages in advocacy for electoral laws and institutions that are compliant with human rights, and monitors and reports on human rights violations during electoral processes.

11. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) is mandated to provide, through its normative support functions and operational activities, guidance and technical support to all Member States, at their request, on gender equality, the empowerment and rights of women and gender mainstreaming. It promotes gender equality and women's participation in political processes. UN-Women is also mandated to lead, coordinate and promote the accountability of the United Nations system in its work on gender equality and the empowerment of women. It provides training and advice on promoting gender equality and women's participation in electoral processes.

12. The United Nations Educational, Scientific and Cultural Organization (UNESCO) is the specialized agency tasked with promoting and supporting freedom of expression, press freedom and freedom of information. Free, independent media, online as well as offline, are essential to the transition towards democracy. To this end, the aim of UNESCO regarding elections is to strengthen the capacity of the media to provide fair and balanced coverage of electoral activities.

13. Other entities of the United Nations system involved in activities related to elections include the Department of Field Support of the United Nations Secretariat, which is primarily responsible for providing administrative and logistical support services to United Nations peacekeeping operations, special political missions and other field presences; the United Nations Office for Project Services (UNOPS), which provides support to electoral activities, largely in post-conflict/peacekeeping environments, in partnership with other United Nations entities; the United Nations Volunteers programme, which provides electoral staff to work in electoral projects and electoral components of peace operations; the Peacebuilding Fund, which can, exceptionally, support elections at critical junctures for peacebuilding; and the United Nations Democracy Fund, which supports projects that strengthen the voice of civil society, promote human rights and encourage the participation of all groups in democratic processes.

B. Electoral assistance activities

14. Annex I to this report provides short descriptions of electoral processes and assistance activities as carried out in a few selected Member States. Annex II contains a list of the States that have received electoral assistance during the period under review, at their specific request or through a Security Council mandate. In providing such assistance, the United Nations, as in previous periods, has continued to emphasize, where appropriate, the use of measures to strengthen confidence in electoral processes and help bring about peaceful outcomes. This has included advocacy and technical assistance in the design of inclusive electoral systems and rules of the process through broad political consultation; the appointment of electoral authorities that are, and are perceived as being, honest, impartial and capable; achieving transparency in electoral administration; and the removal of all barriers to the participation of women and underrepresented groups as voters, candidates and electoral officials. The United Nations has continued to explore how to conduct its electoral assistance activities in such a way as to ensure their complementarity to other United Nations system activities in support of peaceful transitions, democratic governance, the rule of law, human rights and gender equality. It has also continued to pursue opportunities to help build a conducive environment, where appropriate and where requested, through, inter alia, good offices, support to political dialogue, facilitation and mediation, often in collaboration with regional and subregional entities or other actors.

C. Cooperation and coordination within the United Nations system

15. In its resolution 46/137 of 17 December 1991, the General Assembly endorsed the Secretary-General's intention to designate a focal point in order to, among other goals, ensure consistency in the handling of requests of Member States organizing elections. At that time, the Assembly also requested United Nations entities to

collaborate closely with the designated focal point and inform him or her of the assistance provided and activities undertaken by them. Since then, the Assembly has reiterated the need for comprehensive coordination and coherence among United Nations entities in each of its resolutions on this item, most recently resolution 68/164. I am pleased to report that further progress has been made in several areas during the period under review in meeting the requests of the Assembly for coordination, as described directly below:

(a) United Nations entities have met regularly in the context of the Inter-Agency Coordination Mechanism for United Nations Electoral Assistance, chaired by the Electoral Assistance Division, to exchange information, help ensure coordination and discuss new electoral policies;

(b) System-wide electoral policies issued by the focal point, in close consultation with United Nations entities, have continued to grow in number and now include policies on United Nations support towards creating and reforming electoral management bodies, and designing electoral systems;

(c) The framework and modalities for the single United Nations electoral roster of experts were developed to enable that roster to be used by all parts of the United Nations system involved in providing electoral assistance. The United Nations Secretariat and agencies, funds and programmes will all be able to draw from the roster as comprising a pool of pre-cleared candidates. At the time of its completion, the first assessment of experts for inclusion on the roster encompassed over 2,000 candidates. Owing to the high number of applicants, extrabudgetary resources and a temporary reallocation of staff responsibilities were required to facilitate management of the process and the conduct of screening, assessment and interviews. So that the diversity reflected by the roster can be further increased, future targeted efforts will require similar resources.

D. Cooperation with other organizations

16. As in previous reporting periods, the United Nations has actively utilized platforms and tools for electoral capacity-building, institutional memory and knowledge-sharing at the global level. The most notable initiatives are the ACE Electoral Knowledge Network, the Building Resources in Democracy, Governance and Elections (BRIDGE) project and the Global Electoral Organization (GEO) conference. The United Nations has supported efforts to update and maintain the relevance of these global initiatives. A global evaluation of the BRIDGE project conducted in 2014 affirmed its continued relevance as a key capacity development tool in electoral assistance. Recommended improvements are being implemented and new training modules updated. Together with the National Election Commission of the Republic of Korea, UNDP hosted the sixth GEO conference in Seoul in October 2013. The conference, whose overarching theme was sustainable electoral processes and strengthened democracy, brought together over 300 election and democracy professionals to share experiences and identify trends.

17. Electoral partnerships with, and support to, regional and subregional organizations remained a focus area during the period under review. The United Nations has continued to support the Democracy and Electoral Assistance Unit of the African Union in organizing and conducting workshops and training sessions for election observers across the continent and in developing various election-related

materials, including election observation manuals and methodologies. Most recently, the Electoral Assistance Division of the Department of Political Affairs deployed a senior electoral expert to the United Nations Office to the African Union to support the efforts of the United Nations and African Union. Similarly, the Electoral Assistance Division collaborated with the League of Arab States and the Organization of Islamic Cooperation in the training of electoral staff and observers, and in establishing an electoral database and an institutional memory in each organization. For example, the United Nations organized a workshop and a round-table discussion on various aspects of electoral processes at the headquarters of the Organization of Islamic Cooperation in Jeddah, Saudi Arabia, in February 2014. The event provided participants from the Organization of Islamic Cooperation and several other regional organizations, including the Organization of American States, the League of Arab States and the African Union, with a venue for sharing their experiences and good practices. In July 2015, the United Nations organized another event in Jeddah, on the role of civil society and domestic observer groups in enhancing the integrity of electoral processes, which was attended by civil society organizations from States members and non-States members of the Organization of Islamic Cooperation and representatives of regional organizations and international non-governmental organizations. This was in line with Assembly resolution 68/164, in which the Assembly reiterated the role of civil society in the promotion of democratization. The United Nations held discussions with the secretariat of the Southern African Development Community with a view to identifying new areas of electoral cooperation in line with the existing partnership. Initial steps were also taken towards developing an electoral partnership between the United Nations and the secretariat of the Caribbean Community and Common Market.

18. UNDP continued to implement a large number of its support activities through a formal partnership with the European Union. In addition to engaging in country-specific projects, the partnership organized a global workshop on the role of electoral stakeholders and electoral administrations in reinforcing the credibility of electoral processes, which was hosted by the Independent Election Commission of Jordan. UNDP also facilitated and supported the development of the Organization of Arab Electoral Management Bodies, which was launched in June 2015 to provide a platform for regional collaboration towards enhancing electoral knowledge and capacities, and furthering the democratic agenda in the region. This is the first such regional electoral network among Arab States.

19. The United Nations Secretariat is preparing to host, in October 2015, the observance of the anniversary of the endorsement of the Declaration of Principles for International Election Observation, launched at the United Nations in 2005. The fact that the Declaration is now endorsed by 50 organizations from various parts of the world indicates its recognition globally as a document fundamental to the professional observation of electoral processes. In a parallel development, the Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations, launched by the United Nations Secretariat in 2012, has enjoyed growing acceptance as a normative document among non-partisan election monitoring organizations. As of June 2015, some 264 non-partisan citizen election observation and monitoring organizations from 90 countries had endorsed the Declaration, up from 198 organizations from 80 countries since the last report. There are also 16 "international supporters" of the Declaration.

III. Gender equality and elections

20. Promoting women's political participation and supporting national efforts in this respect, including in the area of elections, remains one of the Organization's highest priorities. Data maintained by the International Parliamentary Union indicates that, as of June 2015, 22.4 per cent of parliamentarians in single and lower houses of parliament worldwide were women. This represents a small increase in the proportion reported two years before, when the figure stood at 21.3 per cent (see A/68/301, para. 20), but this still falls short of global aspirations.

21. Within their respective mandates, UN-Women and other United Nations entities have engaged in advocacy and assisted Member States in efforts to meet their international obligations and commitments, including those derived from (a) the Convention on the Elimination of All Forms of Discrimination against Women¹ and related general recommendation No. 25 (2004) of the Committee on the Elimination of Discrimination against Women on article 4, paragraph 1, of the Convention, on temporary special measures;² (b) the Beijing Declaration and Platform for Action;³ (c) General Assembly resolution 66/130 on women and political participation; and (d) Security Council resolution 1325 (2000).

22. Systematic efforts have also been made to ensure that electoral assistance activities are gender-sensitive and include key components on promoting women's political participation. In support of national efforts, United Nations entities have provided: support for women's groups, women candidates and elected members of parliament through assistance in training and capacity-building; assistance in sensitization and training on gender issues targeting political parties, youth, civil society organizations and media; assistance to stakeholders in increasing women's participation in electoral management bodies at all levels; and technical advice to Member States, upon their request, on issues related to drafting or revising electoral laws, including on temporary special measures, where appropriate.

23. In collaboration with other United Nations entities, the Electoral Assistance Division of the Department of Political Affairs has ensured that gender is mainstreamed in all United Nations electoral policy documents. A policy directive on promoting women's electoral and political participation through United Nations electoral assistance was developed and disseminated by the focal point in 2013. Progress was made in achieving more effective mainstreaming of gender in needs assessments. Of the 26 assessments conducted in 2014, 25 included gender-specific analysis and recommendations. In addition, in over 80 per cent of the cases where temporary special measures were not already in place, those assessments made specific recommendations on their use. In a survey conducted by the Electoral Assistance Division among United Nations electoral officials in the field, 92 per cent of the respondents stated that in providing advice to their national counterparts, they applied policies including a gender perspective. In an internal assessment of all its electoral assistance projects in 2014, UNDP found that 62 per cent had gender mainstreaming or women's empowerment as one of the main objectives.

¹ United Nations, *Treaty Series*, vol. 1249, No. 20378.

² *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 38 (A/59/38)*, part one, annex I.

³ *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes 1 and 2.

IV. United Nations resources for electoral assistance

24. The regular budget of the Department of Political Affairs covers the costs for the core staff of the Electoral Assistance Division. Extrabudgetary funds have played a vital role in enabling the Division to carry out its various substantive activities. At present, the Division is not able to draw on the support account for peacekeeping operations, even where it provides support to the electoral components of such missions. UNDP electoral assistance projects are generally funded through voluntary contributions by Member States, and often managed through multi-partner basket funds, which include national counterparts in the management structure so as to ensure greater national ownership. In integrated peacekeeping and special political or peacebuilding missions with an electoral component, the mission budget covers some of the electoral work (including of the relevant mission staff), while the balance, which is often quite substantial, is funded through UNDP multi-donor funding mechanisms.

25. The trust funds administered by the Under-Secretary-General for Political Affairs, along with the UNDP Global Programme for Electoral Cycle Support, remain important sources of extra-budgetary funding for electoral assistance activities. Such funds allow the implementation of rapid response and catalytic projects and programmes, including those aimed at preventing conflict and supporting the participation of women and underrepresented groups in political processes. During the reporting period, extrabudgetary funds were used to support the development of the single roster, rapidly establish activities and deploy experts to, among other countries, the Central African Republic, Myanmar, Nigeria, and Togo, and to support the partnership with the African Union. Extrabudgetary funds administered by UN-Women were used in support of programming to promote women's political and electoral participation.

V. Observations

26. The seventieth anniversary of the Organization provides an opportunity in the area of electoral assistance, as in other areas of work of the United Nations, to look back at what has been achieved and consider future developments. There continues to be a strong demand for United Nations electoral assistance among Member States. I strongly believe that the Organization's neutrality is a key factor in this regard. The Organization has also shown an ability to adapt to the evolving needs of Member States. We must preserve these features of our work. To help us do so, it is critical that we remind ourselves from time to time of the nature of elections and the overall objectives of electoral assistance. This is particularly important in dealing with contested elections, which we sometimes witness in transitional settings and in countries with a history marked by unrest and conflict.

27. A common challenge in such contexts is dealing with electoral malfeasance which is committed for political ends. Fraud is a perversion of democracy and a violation of people's rights. As fraud constitutes a political strategy, it is candidates and political leaders who should therefore take the lead in preventing and discouraging and it. However, an election in which fraud has occurred is not the same as a fraudulent election. The nature and scale of the fraud committed can vary, and it may have been committed by more than one candidate or party. With this kept in mind, United Nations assistance often includes vigorous efforts to help prevent,

detect and mitigate fraud. In so doing, the Organization aims to balance the need for inclusion and enfranchisement with the need for protection of the integrity of the process. Indeed, overly strict anti-fraud measures may lead to situations in which voters are unable to exercise their right to vote.

28. More broadly, any situation in which there is a perception that the electoral process lacks credibility because of irregularities is a serious one. All too frequently, Member States — and the United Nations entities that provide them with assistance — grapple with situations in which contestants and their supporters refuse to engage in the electoral process or allege widespread misconduct and procedural flaws. I am particularly concerned about elections in which contestants refuse to accept outcomes that are generally considered to be legitimate. Both types of situations — those where there is real electoral fraud and those where fraud is merely alleged — can undermine electoral processes in a very fundamental way, as they erode confidence in the existing political system. This can lead to polarization, unrest, a breakdown of political dialogue and, possibly, the outbreak of violence.

29. The credibility of an election is closely related to the extent to which (a) the democratic principles of universal suffrage and political equality and other international obligations are respected and (b) the election is professional, accurate, impartial and transparent in all stages of its administration. At the same time, the connection between the technical quality of an election and the legitimacy of its outcomes is complex. Most elections produce results that are accepted even in the face of imperfections. In contrast, procedurally well-conducted elections can lead to situations in which a losing candidate or other stakeholders refuse to accept the outcome or lose confidence in the results.

30. The reason for this is that elections are inextricably intertwined with the political context in which they are held. A genuine election is one in which the result reflects the freely expressed choice or choices of electors and is therefore broadly accepted. Consequently, in considering ways in which the Organization might help Member States increase the likelihood that election outcomes will be accepted, I believe that it is critical to mitigate winner-takes-all and extremely high-stakes politics in an election, in addition to strengthening the procedural aspects of the election itself. This entails, *inter alia*, examining the features of constitutional design; strengthening the system of checks and balances in government; building the capacity of rule of law institutions; ensuring an appropriate distribution of political and economic power among state institutions at different levels of government; promoting inclusive and appropriate electoral and political systems; holding broad discussions on the rules of the electoral process; introducing mechanisms for the protection of human rights of groups and individuals, and the role of the opposition in the political system; bringing potential spoilers, such as armed groups, into the political process; and putting in place mechanisms directed against impunity and pervasive corruption. A comprehensive strategy for promoting the acceptance of results and the prevention of violence centred around elections involves both broad engagement by the Organization, and the exercise of political will by national actors.

31. The responsibility for a successful election lies not just with the electoral management body but with the entire range of electoral stakeholders, which includes political parties, supporters and civil society and voters at large. Nevertheless, the overriding responsibility for a successful election lies with

political leaders, as they are in a position to encourage their supporters to engage in proper, peaceful behaviour; to commit to challenging election results through legal means only and with substantiating evidence; to accept final outcomes, as officially declared; and to be gracious in defeat and magnanimous in victory, including through offering political space for the opposition. I call on all candidates and senior officials of political parties to demonstrate such responsible leadership. I also echo the invitation of the General Assembly to Member States to facilitate the full participation of civil society in electoral processes, in recognition of the fact that civic engagement is an important element in the promotion of democratization.

32. The notion of integrity in elections — referring to adherence to international obligations and commitments, and to professionalism, impartiality, accuracy and transparency in electoral administration — has developed into an important and useful reference point for election administration. The United Nations continues to encourage and support the efforts of Member States to promote electoral integrity by complying with their international commitments, including, as relevant, those set out in the Universal Declaration of Human Rights,⁴ the International Covenant on Civil and Political Rights⁵ and the Convention on the Elimination of All Forms of Discrimination against Women. Much valuable work is being done in scholarly and policy circles to identify the hallmarks of integrity. As noted above, however, I am of the view that conducting genuine elections requires more than improving technicalities and ensuring compliance with international commitments. It is also important that one exercise caution before referring to widespread effective practices as universally applicable norms, even when those practices have proved to be effective in a number of situations. The obligations of Member States are based on the international covenants to which they have acceded, amplified by any commitments they may have made through adherence to instruments of a political nature in the context, for example, of regional organizations. As the General Assembly has noted on numerous occasions, there is no single model of democracy.

33. In the context of United Nations assistance to countries emerging from conflict or undergoing a profound political transition, it is sometimes asked whether an election was not held prematurely. In such discussions, the capacity of a country and its institutions are often invoked as providing reasons for concluding that the timing may not have been right. Democratic development, however, is an ongoing process; it may take decades before the level of success of the elections in such a country reaches the level of success of those in more mature democracies; moreover, a good election does not necessarily lead to good governance. Any discussion about timing should take into account the purpose of the election, and how the legitimacy required to govern would be established and maintained other than by an electoral process. I am therefore of the view that it is difficult to create a general template for determining when the circumstances are right for holding a first post-conflict election and simply note in this regard that there should be general agreement on the rules governing the election and the institutions that will administer the process, and adequate funding and sufficient time for all practical preparations. Moreover, it is critical to consider the sequencing of key events in the transition as a whole, rather than just the timing of a first post-conflict election. As holding an election before a new political architecture has taken shape through an inclusive and consultative process could be divisive, an election in such circumstances should therefore be

⁴ General Assembly resolution 217 A (III).

⁵ See General Assembly resolution 2200 A (XXI), annex.

viewed only as a transitional, one-time event, within the context of a putting into place of the longer-term political framework.

34. While I am somewhat encouraged by the continuing upward trend in the number of women in parliament, this has not been sufficient. The presence of women in appointed and elected positions remains low and progress is uneven. More needs to be done globally, both in developing and in developed countries, to improve the situation of women. I call again on all Member States to redouble their efforts to promote women's participation in politics. This, of course, goes beyond mere numbers in an elected body and encompasses the empowerment of women as full and active participants in voting and decision-making.

35. United Nations entities with the mandate to provide electoral assistance should continue to advocate for the elimination of all forms of discrimination against women, with a view to facilitating their achievement of both *de jure* and *de facto* equality with men in terms of enjoying political rights and freedoms. Temporary special measures including quotas have proved to be effective tools for helping to increase women's political participation in situations where the proper conditions are in place. In addition to quotas, there are other temporary special measures, as elaborated in general recommendation No. 25 (2004) of the Committee on the Elimination of Discrimination against Women, such as funding mechanisms, which can be effective. Use of a particular measure would depend on the circumstances, as in each case the impact, the complexities and the unintended side effects vary depending on the specific electoral system of the country and the context. Advocacy efforts should extend beyond electoral processes and specific electoral events and focus attention on women's right to political participation at all levels, including in executive and judicial appointments, and on the need to combat discriminatory practices and stereotypes which may limit women's enjoyment of their rights. Access to adequate data is essential when designing effective policies and measures aimed at increasing women's participation in electoral and political processes. The United Nations at all levels should encourage the collection of sex-disaggregated data by national electoral authorities, including on voter registration, candidacy and voter turnout.

36. In my previous reports, I drew attention to the costs of elections and electoral assistance, particularly in the context of the introduction of new technologies. I believe that Member States are primarily responsible for organizing cost-effective elections and for pursuing strategies that will eventually allow them to be self-reliant. This entails adopting methods and practices that are financially sustainable within the context of the country concerned, along with early planning for a realistic transition from international assistance to nationally run and nationally funded elections. I also believe that — now perhaps more than ever before — that the international community must pay close attention to the financial aspects of United Nations assistance. Globally, the level of voluntary contributions for electoral assistance has not kept pace with the increasing number of assistance projects. A number of new projects currently face significant budget gaps. There have also been instances in which donors have announced a reduction in their financial support for long-running projects. Costly elections are also a drain on national budgets, limiting public spending in other priority areas such as health, education and development. While the circumstances in each of these situations are often different, I believe that it has become clear that we all — donors, assistance providers and requesting

Member States — must pursue more cost-effective solutions and become more discerning about the kind of assistance that is to be provided.

37. The number of organizations outside the United Nations system offering electoral assistance and expertise to Member States has continued to grow. In many cases, such new actors have been able to add value and comparative advantages, and work well with, and alongside, United Nations entities. There is a risk, however, that the field of international electoral assistance may become overcrowded. As I noted above, donor funding has not kept up with the increase in activities, making the competition for resources more pronounced. In our experience, the most effective situations are those in which the United Nations has been given a coordinating or convening role with respect to external assistance providers. I again encourage Member States, when requesting assistance, and when drafting mandates and finalizing project documents, to consider including a lead role for the United Nations in ensuring coherence and coordination among all assistance providers.

Annex I

Selected examples of United Nations electoral assistance during the reporting period

Algeria

Presidential elections were held in Algeria on 17 April 2014. Over 11 million voters (constituting approximately 52 per cent of those eligible to vote) did vote. Despite some security incidents, including a few election-related and ethnic clashes before polling day, the election was conducted in a peaceful atmosphere overall. The Electoral Assistance Division of the Department of Political Affairs of the United Nations Secretariat deployed a three-member panel of experts during the election to follow the process and to report to the United Nations focal point. The panel met with a wide range of national and international interlocutors and visited a number of polling centres. The panel noted that the elections were technically well organized and that steps had been taken to ensure more consistency in electoral procedures.

Guinea-Bissau

Presidential and legislative elections were held on 13 April 2014, with a second-round presidential run-off held on 18 May 2014. The elections were a key step in efforts to return the country to constitutional order, following the military intervention in May 2012 and the establishment of a transitional Government. Polling was held in a generally peaceful environment and was devoid of any significant incidents. The national security forces were complemented by the Economic Community of West African States (ECOWAS) security mission (ECOMIB) to ensure a visible security presence throughout the country. There was a high turnout of voters, estimated at over 60 per cent. The United Nations Development Programme (UNDP) provided technical assistance and support in respect of procuring equipment and materials. Working closely with other international partners, in particular the African Union and ECOWAS, the Special Representative of the Secretary-General and Head of the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) used his good offices to help create an environment conducive to the conduct of credible elections, in accordance with the mission's mandate, and provided a framework for coordination for other international support.

Libya

Elections to a constitutional drafting assembly were held in Libya on 20 February 2014. They were followed, on 25 June 2014, by elections to the House of Representatives, the country's third national election in the post-Gaddafi era. Political and security challenges in those periods included violence and intimidation directed against prominent female candidates and human rights defenders, including the shooting of one such defender on polling day for the parliamentary election. Observers commended the performance of the High National Electoral Commission. An integrated United Nations electoral team consisting of advisers from the United Nations Support Mission in Libya (UNSMIL) and UNDP supported the Libyan

authorities in all areas of the electoral operations, external relations and public awareness. The integrated team also facilitated professional development opportunities and dialogue among Libyan electoral stakeholders. The United Nations further engaged with national stakeholders to encourage more women to register as candidates and held capacity-building and training sessions for women candidates. The UNSMIL human rights component monitored the human rights situation during the elections. Following subsequent shifts in the political and security situation, United Nations efforts evolved to focus on strengthening Libya's legislation, processes and institutional capacity so as to ensure operational readiness, should any elections be called. The United Nations Democracy Fund provided support to the strengthening of independent journalism and improvement of citizens' access to information regarding the country's democratic process.

Mali

Mali held presidential elections on 28 July 2013, with a second round on 11 August 2013. The election helped re-establish constitutional order, which had been suspended since the military coup in early 2012. A pre-electoral agreement between the Government and armed opposition groups paved the way for a peaceful process. Despite the constraints imposed by a challenging electoral timetable and a volatile security situation, the election was held under generally calm conditions with no significant security incidents reported. Some 45 per cent of the registered voters participated in the process, a proportion higher than that in previous elections. Legislative elections were held on 24 November 2013 with a second round (where required) on 15 December 2013. Voter turnout was estimated at 37 per cent. Only 8 women were elected, compared with the 15 elected to the previous parliament. An estimated 1.2 million citizens were not able to register and the country faced limitations in respect of the participation of refugees despite measures taken by national stakeholders to secure inclusive participation. These challenges notwithstanding, observer groups were generally positive in their assessment of the electoral process.

The United Nations provided political and technical, logistical, financial and security support. The Special Representative of the Secretary-General used his good offices to help establish a conducive environment. The United Nations Integrated Electoral Team, consisting of advisers of UNDP and the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), provided technical assistance and advice in a broad range of areas, including electoral operations, civic and voter education, capacity-building of the electoral management bodies, financial support for the hiring of polling staff, updating of the voter register, printing of the voter list, and resource mobilization. Other MINUSMA components facilitated the deployment of equipment and personnel of the national electoral authority and provided security support. The MINUSMA Human Rights Division monitored the human rights situation during both elections.

Nigeria

On 28 March and 11 April 2015, Nigeria held its presidential, parliamentary and State House of Assembly elections. Governorship elections were held in all but seven States. The elections were held in a challenging political and security

environment, amid concerns over election-related violence. The presidential elections were keenly contested by the incumbent President and an opposition leader. Polling day was generally peaceful, with some incidents of violence. Voter turnout was estimated at 47 per cent. The opposition leader secured a sufficient number of votes to win the election in the first round. The peaceful transfer of power to an opposition party was the first such event in the period following the country's transition to civilian rule in 1999.

At the request of the Nigerian authorities, the United Nations initiated a broad range of political and technical engagement activities before and during the election in support of a credible and peaceful process. This included the good offices and facilitation of the Special Representative of the Secretary-General for West Africa, working in close coordination with regional and international actors, in particular the African Union and ECOWAS. It also included high-level engagement by other senior United Nations officials at United Nations Headquarters and in Nigeria. UNDP provided technical assistance to national authorities, including capacity-building of the Independent National Electoral Commission in the areas of planning and electoral operations, results management and Commission-stakeholder relations. UNDP also provided support to domestic observer groups and to the National Peace Committee. A small team from the Office of the United Nations High Commissioner for Human Rights monitored the human rights situation as centred around national elections. The Office of the High Commissioner also assisted the National Human Rights Commission in preparing a report on pre-election violence and in designing a UNDP-funded project to support the Commission's monitoring of election-related violence.

Solomon Islands

Elections to membership in parliament were held on 19 November 2014. This was the first election following the withdrawal of the Regional Assistance Mission to Solomon Islands, a regional security contingent deployed in 2003 at the request of the Government. This was also the first time the United Nations provided technical assistance through a comprehensive electoral assistance project implemented by UNDP. Voting proceeded in a calm and orderly manner with a high voter turnout, reaching almost 90 per cent of registered voters. Observers and the media praised the people of Solomon Islands for turning out in high numbers and for the professionalism of the electoral commission. UNDP assistance included support for creating an accurate and updated voters list, civic education, electoral law reform and strengthening of women's participation.

Tunisia

Tunisia held national elections to membership in the Assembly of the Representatives of the People on 26 October 2014, followed by presidential elections on 23 November 2014 and a second round of voting on 21 December 2014. National and international observers praised the efforts of the Tunisian High Electoral Commission; and some called polling day a milestone in Tunisia's transition. A total of 68 of the 217 seats (over 31 per cent) were filled by women. A UNDP project provided technical assistance to national authorities responsible for managing the electoral process and supported civil society organizations with

respect to public outreach activities and women candidates. Before and after the election, UNDP continued to strengthen the institutional sustainability of the electoral authorities and their ability to conduct credible electoral events through a long-term capacity-building programme. The United Nations Democracy Fund supported the development of a knowledge base of public priorities and political attitudes through which to strengthen the ability of media and political parties to respond to citizen demands; and also helped build the capacity of local associations in three regions to facilitate an increase in citizen participation in the democratic process.

Annex II

States that received United Nations electoral assistance during the reporting period

Afghanistan*
Albania
Algeria
Bangladesh
Benin
Bhutan
Bolivia (Plurinational State of)
Burkina Faso
Burundi*
Central African Republic*
Chad
Comoros
Côte d'Ivoire*
Democratic Republic of the Congo*
Egypt
El Salvador
Ethiopia
Georgia
Ghana
Grenada
Guatemala
Guinea
Guinea-Bissau*
Guyana
Haiti
Honduras
Iraq*
Jordan
Kenya

* Assistance was provided under a Security Council mandate.

Kyrgyzstan
Lebanon
Lesotho
Liberia*
Libya*
Madagascar
Malawi
Maldives
Mali*
Mozambique
Myanmar
Nepal
Niger
Nigeria
Pakistan
Papua New Guinea
Paraguay
Peru
Republic of Moldova
Rwanda
Samoa
Sao Tome and Principe
Senegal
Sierra Leone
Solomon Islands
Somalia*
Suriname
Timor-Leste
Togo
Tonga
Tunisia
Turkmenistan
Uganda
United Republic of Tanzania

Vanuatu

Yemen

Zambia

State of Palestine
